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Book Reviews

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The Journal of SOCIAL, POLITICAL AND ECONOMIC STUDIES

Roger Pearson
General Editor
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The United States Requirements for an Antisatellite (ASAT) Capability

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This article examines the United States policy towards acquiring antisatellite weapons. It seeks to examine why the United States deemed it necessary to develop antisatellite weapons and indeed poses the question is the United States nearer to acquiring an ASAT now. Initially it analyses the philosophy which believed that ASAT weapons had a destabilising effect on the United States' relationship with the Soviet Union. The article then addresses the successive administration's policies towards ASAT weapons and discusses the technological systems. Towards the latter period of the Cold War in the late 1970s ASAT arms control measures began to be debated. It is beyond the scope of the article to address all of the ASAT negotiations, so the focus of this section is on the period when ASAT limitations were at their closest. With the end of the Cold War the ASAT issue has not gone away, indeed the issue has risen to the fore, especially in the light of the US policy which seeks to control space. The final section addresses the US approach to this. This is the salience for ASAT discussions to date, in that appears that the development of a space control policy is driving the requirement for an ASAT capability and such a capability could be closer now than at any time before.

Key Words: Space weapons, military space, antisatellite weapons, space control, antisatellite treaty, space policy, space warfare

While space itself is relatively remote from human conflict, certain kinds of satellite could have a potentially decisive impact on the outcome of conflicts on earth. Both sides recognise this fact. In peacetime, their satellites operate freely. But each side maintains some capability to interfere with or attack satellites that-given the outbreak of war-might threaten to reveal the location, size or readiness of their terrestrial or maritime forces.[2]

Antisatellite weapons are deemed to have a similar impact on strategic stability as ballistic missile defence, in that they are seen as destabilising.[3] ASAT weapons threaten the satellites which are said to

[1] Correspondence to Dr. Matthew Mowthorpe > mowthorpe@hotmail<.

[2] William J Perry, Brent Scowcroft, Joseph. S. Nye, Jr.,& James A. Schear, "Anti-Satellite Weapons and U.S. Military Space Policy: An Introduction", in Seeking Stability in Space: Anti-Satellite Weapons and the Evolving Space Regime, (Aspen: University Press of America, 1987), p. 1.

[3] Pual B. Stares, "Anti-Satellite Arms Control in a Broader Security Perspective", in *Seeking Stability in Space: Anti-Satellite Weapons and the Evolving Space Regime*, p. 111.

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enhance stategic stability namely early warning satellites, communication satellites and photoreconaissance satellites. Early warning satellites are vital to strategic stability in that they provide warning of an impending attack, especially in a nuclear context. In a nuclear arena the warning time is of essence to strategic stability in that it prevents one side achieving a surprise first strike attack on the other side's two retalliatory nuclear assets namely ICBMS and nuclear equipped aircraft. An ASAT capability targetting early warning satellites is seen as extremely destabilising in that it undermines a central essence of nuclear deterrence, namely that a suprise attack is unachievable. Also, the targetting of photoreconnaissance satellites which are important in the context of arms control verification, undermines the stability of the international security environment which arms control can provide. It is for these reasons that ASAT weapons are deemed to be destabilising in an international security context.

The United States ASAT Programmes During the Cold War

The Eisenhower Administration's position towards the development of an anti-satellite system was founded on the belief that the United States was more reliant on reconnaissance information provided by satellites than the Soviet Union and subsequently did not want to initiate anything which could jeopardise that. Indeed, the following quote from Herbert York the former Director of Defence Research and Engineering, encapsulates this belief:

> The President himself, in recognition of the fact that we didn't want anybody else interfering with our satellites, limited [one ASAT] programme to study only status and ordered that no publicity be given either the idea or the study of it.[4]

Implicit within this belief is that the United States by forgoing the development of an ASAT capability would have a subsequent effect on the Soviet Union's own desire to have such a system. Indeed this policy flows from the sanctuary school of space policy, despite the fact that the Eisenhower administration was seen to be 'hedging its bets' by pursuing the conceptual development of an ASAT system.

The Kennedy Administration like Eisenhower, was willing to authorise the development of other ASAT programmes in the eventuality of an unforseen Soviet space threat. Indeed as the following quote by Marshal Biriuzov, chief of the Soviet Strategic Rocket Forces, in an

[4] Herbert York, *Race to Oblivion*, (New York: Simon and Schuster, 1970), p. 131.

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interview in February 1963 that was made public by the Kennedy Administration highlights: "It has now become possible to command from earth to launch missiles from satellites at any desired time and at any point in the satellite trajectory."[5] Indeed further evidence of Soviet intentions was provided by Secretary of Defence McNamara testifying before Congress a month prior: "...the Soviet Union may now have or soon achieve the capability to place in orbit bomb-carrying satellites...[and] we must make the necessary preparartions now to counter it if it does develop."[6] This had led McNamara to instruct the US Army in May 1962 to develop and modify NIKE-ZEUS in an ASAT role.

The first operational ASAT was Programme 505 which was the adaption of the Army's NIKE-ZEUS Anti-Ballistic Missile and work began in 1955. The technology of an ABM is able to be adapted for an ASAT role since both missiles are intended to intercept targets in space. The differences however lie in the geometry of the interceptions; an ICBM observes a descending trajectory compared with a horizontal path of a satellite. There are also differences in angle, distance and speed of the target which must be adjusted by the guidance radar. An ABM also has to be operational at all times. In many ways an ASAT capability is less demanding than that of an ABM since only one target wouldbe engaged at a time. The target's flight path, direction and altitude would be known well in advance, whereas an ABM has to contend with multiple targets, decoys, jammers and booster debris simultaneoulsy, with little warning time.

The first NIKE-ZEUS ASAT test successfully intercepted an imaginary target in space at an altitude of 100 nautical miles (185km), and was within the lethal distance of the nuclear warhead.[7] A second ASAT test was conducted and interecpted an imaginary target in space at a range of 151-nautical mile (279km). However several failed tests followed and Program 505 was eventually phased out in 1966, whilst the rival Air Force Program 437 received the ASAT mission.[8]

Program 437 used a Thor intermediate range ballistic missile to reach its target. The first intercept by Program 437 occured in February 1964. The Thor missile was launched at a target, a Transit 2A rocket

[5] Quoted from US Congress, Senate, Committee on Aeronautical and Space Sciences, *Soviet Space Programs 1962-1965: Goals and Purposes, Achievements, Plans and International Applications*, Staff Report (30 December 1966), p. 75.

[6] ibid.

[7] Curtis Peebles, *Battle for Space*, p. 83.

[8] ibid., p. 85.

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body, occupying a 564 by 335 nautical mile orbit, inclined at 66.7 degrees. The intercept point was at an altitude of 540 nautical miles, the warhead passed close enough to the target to be considered a successful interception.[9] The following two tests were also deemed to be succesful. In June 1964 the Thor ASAT system was declared operational. However, the effects of using a nuclear armed ASAT was considered in terms of its non-discriminating effect on friendly satellites and the search for a non-nuclear ASAT was considered. Consequently on April 1, 1975 Program 437 was terminated parly due to its inability to deal with the threat from rapidly increasing in number Soviet military satellites.[10]

The United States position for a US ASAT capability in the 1970s was that the United States should match the Soviet ASAT capability a means of deterring attacks on US satellites. A weakness of this position is that it is argued that the United States was more dependent upon it satellites for military effectiveness than the Soviet Union, therefore in a tit for tat exchange the United States would be in a weaker position. The United States would have been in a weaker position vis a vis the Soviet Union since the Soviets had fewer military forces deployed beyond their borders and could rely on ground-based lines of communications, as well as the fact that the Soviet had less need for world-wide communications and navigation aids.[11] For these reasons it is unlikely that the possession by the United States of an ASAT capability would have acted as a deterrent for the Soviet Union making use of its ASAT capability.

The outgoing Ford administration and the incoming Carter administration recognised the Soviet "anti-space defence" system as a threat to US space assets. In response to this newly perceived threat the Ford administration planned to "...increase significantly the US space defence effort over a broad range of space-related activities which include space surveillance, satellite systems survivability, and the related space operations control function (meaning a US ASAT)."[12] The Carter administration unlike any of the previous administrations was faced with the likelihood of a Soviet ASAT becoming operational. However, like the Eisenhower and Kennedy administrations, the Carter administration

[9] ibid., p. 88.

[10] ibid., p. 94.

[11] Donald L. Hafner, "Averting A Brobdingnagian Skeet Shoot", *International Security*, Winter 1980/81, p. 51.

[12] Secretary of Defence Donald H. Rumsfeld, *Report of the Secretary of Defence Donald H. Rumsfeld to the Congress on the FY 1978 Budget*, FY 1979 Authorisation Request and FY 1978-82 Defence Programmes, January 17, 1978.

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pursued a policy of negotiating arms control on ASATs whilst maintaining research and development of an ASAT system as insurance. Although the research and development into ASAT technologies was heavily constrained. The following quote from the Carter administration's Secretary of Defence Brown encapsulates the essence of this policy:

> As the President has clearly stated, it would be preferable for both sides to join in on an effective, and adequately verifiable ban on anti-satellite (ASAT) systems; we certainly have no desire to engage them in a space weapons race. However, the Soviets with their present capability are leaving us with little choice. Because of our growing dependece on space systems we can hardly permit them to have a dominant position in the ASAT realm. We hope that negotiations on ASAT limitations lead to a strong symmetic control. But in the meantime we must proceed with ASAT programs (for the present short of operational or space testing), especially since we do not know if the Soviets will accept the contols on thse weapons that we would think necessary.[13]

The Carter administration engaged the Soviets on three separate occasions from 1978 to 1979 in the pursuit of an ASAT limitations treaty, but the Soviets were unwilling to come to an agreement during this era.[14] The Soviet invasion of Afghanistan put an end to the negotiations in late 1979.

There were several key events early in the Reagan administration that polarised the ASAT issue. The Soviets in 1981 submitted to the United Nations a draft ASAT treaty calling for the banning of weapons in space. Soviet Premier Andropov two years later continued the Soviet 'peace initiative' by denying Soviet first use of ASATs in outer space and offered to dismantle the existing Soviet ASAT system and prohibit further development. In 1983 the Soviets proposed another draft treaty to the UN. This called for "a ban on the use of force in space and dismantlement of existing ASAT systems."[15] The Soviets at the same time as these proposals tested their co-orbital ASAT system for its twentieth and final test in 1982. The Soviet Union shortly after unilaterally declared a moratorium on any further tests of its co-orbital

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[13] Harold Brown, Secretary of Defence, *Department of Defence Annual Report Fiscal Year 1979*, February 2, 1978.

[14] Roger C. Hunter, *A United States Antisatellite Policy for A Multipolar World*, (Maxwell Air Force Base, Alabama: Air University Press), October 1995, p. 19.

[15] Marcia S. Smith, *CRS Issue Brief: ASATs - Antisatellite Weapon Systems*, Congressional Research Service, December 7 1989, p. 15.

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ASAT.[16] This unilateral declaration of a moratorium provided ammunition for opponents in Congress of the US' development and deployment of an ASAT. However, the Reagan administration determined that the development, procurement and deployment of a US ASAT was vital to national security interests despite the Soviet proposals.

The Reagan administration showed strong support for a US ASAT capability by requesting additional funding from Congress from fiscal year 1982 through to fiscal year 1985. Indeed, Congress appropriated each year what the administration requested.[17] In addition to the funding increases the Reagan administration provided a rationale for the acquisition of an ASAT capability. In a report to Congress on March 31, 1984, President Reagan cited two primary reasons for pursuing a US ASAT. First, a US ASAT capability to destroy satellites was required to deter Soviet attacks on US satellites in a crisis or conflict. The policy statement cited the example that if the Soviet Union used its ASAT capability in a crisis or conflict to disable or destroy a US satellite, the United States would have no means to respond in kind to avoid escalating the conflict.[18] Second, it was argued, "...a comprehensive ASAT ban would afford a sanctuary to existing Soviet satellites designed to target US naval and land conventional forces."[19] Therefore, the Reagan administration argued a capability was required "for US and Allied security to protect against threatening satellites."[20] The Reagan administration's policy for an ASAT requirement was thus as a means to deter the Soviets from using their co-orbital ASAT to attack US space systems and a means to negate Soviet space systems designed to target US and allied forces. The Reagan administration's policy towards ASAT represented a departure from the policies espoused by previous administrations in that arms control measures were no longer deemed desirable. The twin-track policy under the Eisenhower and Carter administration of simultaneously pursuing research and development and ASAT arms control measures was effectively over.

The air launched US ASAT capability began in the early 1970s with full scale development commencing in 1977. The system involved the 'direct ascent' of an interceptor to its target, in contrast to the Soviet co-

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[16] ibid.

[17] R. C. Hunter, *A United States Antisatellite Policy for A Multipolar World*, p. 20.

[18] President Reagan, *US Policy on ASAT Arms Control: Communication from the President of the United States*, (Washington, D.C.: USGPO, 1984), p. 7.

[19] ibid., p. 8.

[20] ibid.

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orbital ASAT system tested between 1968 and 1982. The interceptor consisted of an MHV on a two-stage missile. The system was mounted under an F-15 fighter, the SRAM first stage and the Altair second stage would have taken the interceptor up another 500 kilometres, from where the MHV would use its eight heat-seeking infrared sensors to acquire the target, and then fired a small rocket thrusters to ram the target. Destruction was to be achieved by velocity impact.

The US direct-ascent antisatellite weapon was launched by a rocket which was carried to high altitude by an F-15. The two stage rocket launched a device known as the miniature homing vehicle into the path of the target satellite from information supplied by the ground-based satellite tracking network.[21] Homing was to be acheived through a combination of eight infrared telescopes, a set of small thrusters and a laser gyroscope. The infrared sensors identified the target against the cold background of space. The cylinder rotated whilst the gyroscope determined when the various thrusters were to be fired in order to bring it into the path of the target. The ensuing high speed collision destroys the target. In principle any F-15 could have been adapted to carry the antisatellite weapon. Carrier-based aircraft or midair refuelling of the F-15 would have enabled the antisatellite weapon to attack almost any position in the world.[22] This would have allowed the US to target all of the low-orbit satellites along with the highly elliptical orbit satellites known as Molniya satellites, possessed by the Soviet Union.

The first flight test occurred on 21 January 1984, when an ASAT booster, without a MHV aboard, was launched against a point in space. A second test in November was targeted against an infrared emitting body (a star) to test the ability of the MHV to distinguish between its target and the background infrared emission of space. Both of these were considered to be successful. The third, and most important, test took place on 13 September 1985; in this test, the complete system was launched against a target satellite. The MHV successfully intercepted the target.[23]

The MHV employed an infrared sensor which looked out through 8 small telescopes to provide target information. This guaranteed accurate data and prevented the Miniature Vehicle from 'attacking' stars.[24] It

[21] Richard L. Garwin, Kurt Gottfried & Donald L. Hafner, "Antisatellite Weapons", *Scientific American*, June 1984, p. 31.

[22] ibid., p. 32.

[23] Stephen Kirby, *The Militarisation of Space*, 1987, p. 110

[24] Curtis Peebles, *Battle for Space*, p. 115.

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spinned at 20 revolutions per second, which not only kept it stable but assisted the 8 telescopes in acquiring and locking onto the target. Once the target was acquired, the Miniature Vehicle separates from the second stage.

The outer shell of the Miniature Vehicle was composed of 56 small cylinders of solid rocket-propellant, the nozzles of which point out to the side. When fired, under control of the guidance system, they move the vehicle body to keep it on a collision course. The rockets were fast burning so as not to upset the spin stabilisation. The guidance task of firing the correct rocket at the proper time was a major one requiring extremely sophisticated electronics, and timing was of the essence because of the vehicle's fast spin rate.[25]

After the Miniature Vehicle's course had been corrected, a counterfiring stops the lateral drift. To achieve accuracy a laser-gyro which acted as a clock enabling the on-board computer to determine which rockets have fired – they were single-shot only – and allowed the Miniature Vehicle to rotate past the spent rockets. Additional rockets were used to prevent the Miniature Vehicle developing 'wobble' due to the firings.

The Miniature Vehicle destroyed by direct collision with the target at 45,000 feet per second (13,716 mps). The energy of such an impact is akin to hitting a satellite with a shell from a battleship's main gun.[26] A direct collision at such high velocity was simpler than fusing and exploding a warhead.

The F-15-launched anti-satellite missile was a two-stage solid-fuel rocket 17.75 ft (5.4m) long and weighing 2632 lb (1194 kg). The first stage 17.6 in (6.9 cm) in diameter was based on the Boeing Short Range Attack Missile (SRAM). At the base are two small fixed fins and three large movable fins which control the vehicle during atmospheric ascent.[27] The second stage had an Altair III rocket motor of the kind used as the fourth stage on the Scout launch vehicle. It is specially strengthened for its antisatellite role and is fitted with small hydrazine thrusters for attitude control. The second stage was 19.76 in (7.8cm) in diameter. At its forward end was the Miniature Vehicle, with its spin table and subsystems (such as the inertial reference unit, computer and cryogenic tank for cooling the infrared sensor). An inertial guidance unit provided control during powered flight until a specific point in space was

[25] ibid.
[26] ibid., p. 116.
[27] ibid.

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reached.[28] At this point, the Miniature Vehicle begins to search for its target. After second-stage burnout, it spins up and the target satellite is acquired.

The F-15 launch aircraft itself required certain modifications. An electronic package replaced the 20mm ammunition container. There were wiring charges and a special centerline pylon which included a microprocessor, a communications line between the missile and aircraft, a back-up battery, electrical connections and a gas generator ejection system. The pilot's launch duties were minimal as he receives steering commands via the cockpit head up display. For most attack profiles, the ASAT was launched while the F-15 was in subsonic, straight and level flight. For satellites in higher orbits, a supersonic climb would be used. This added speed to the ASAT and avoids the need for a sharp pull up which might overstress the missile. The launch was automatic with a 10 to 15 second window.[29]

The F-15 ASAT has a number of advantages over a more conventional system. An F-15 could be flown to wherever necessary to accomplish an interception. A fixed-based ASAT, dependent on a large rocket, lacked such flexibility. As long as there are F-15s, ASAT missiles, supplies and means of to function whereas a fixed-base ASAT would be a candidate for attack during the early stages of an escalating war.[30] It was economically feasible to build enough of the weapons to cope with a high enemy launch rate.

In the mid-1980s Congress began constraining the US ASAT programme. The fiscal year 1986 appropriation procurement money was significantly slashed and in fiscal years 1987 and 1988 Congress denied procurement funds completely. On December 19, 1985 a congressional ban prohibited any further tests of US ASATs in space until and unless the Soviets tested its ASAT again. In fiscal years 1987 and 1988 Congress continued the ban.[31] Indeed, an Office of Technology Assessment report highlighted the complexity of the ASAT issue:

> In choosing between ASAT weapon development and arms control, one wishes to pursue that course which makes the greater contribution to US national security. This is often characterised as a choice between developing a capability to destroy Soviet satellites while assuming US satellites will also be at risk, or protecting US satellites to some extent

[28] ibid.
[29] ibid.
[30] ibid., p. 117.
[31] Marcia S. Smith, *CRS Issue Brief: ASATs - Antisatellite Weapon Systems*, p. 12.

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> through arms control while forfeiting effective ASAT weapons. The better choice could, in principle, be identified by comparing the utility which the United States expects to derive from its military satellites with the disutility which the United States would expect to suffer from Soviet MILSATs during a conflict. Such a comparison – although possible in principle – is made exceedingly difficult by the number of conflict scenarios which must be considered and by the lack of consensus or offical declaration about the relative likelihood and undesirability of each scenario.[32]

During the latter part of the Reagan administration Congress was unable to be convinced of the deterrent value of an ASAT. Also, the possible influence on Congress of the earlier Soviet initiative for banning weapons in space and the moratorium on testing of their own ASAT system cannot be discounted. In February 1988, Secretary of Defence Carlucci announced the cancellation of the Air Force's F-15 ASAT programme citing the negative impact of the congressionally mandated ASAT test ban.[33]

The Search for ASAT Arms Control

The first notification that the Carter administration was seriously considering ASAT arms control and had proposed the issue with the Soviet Union came at a press briefing by President Carter on March 9, 1977 where he announced:

> I have proposed both directly and indirectly to the Soviet Union, publicly and privately, that we try to identify those items on which there is relatively close agreement – not completely yet, because details are very difficult on occasion. But I have for instance, suggested we forego the opportunity to arm satellite bodies, and also to forego the opportunity to destroy observation satellites.[34]

The issue was raised again by Secretary of State Vance on his visit to Moscow in March of that year. Although not the primary focus of the visit, both the Arms Control Disarmament Agency and State Department had prepared briefing papers that outlined a range of antisatellite arms control options. At the press conference following the meeting on

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[32] Office of Technology Assessment, *Antisatellite Weapons, Countermeasures, and Arms Control: Summary*, (Washington D.C.: US Government Printing Office, 1985), p. 10.

[33] R. C. Hunter, *A United States Antisatellite Policy for A Multipolar World*, p. 24.

[34] Press Conference of President Carter, Washington, D.C., March 9, 1977, reproduced in Roger P. Labrie, ed., *SALT Handbook: Key Documents and Issues*, (American Enterprise Institute, Washington, D.C., 1979), p. 423.

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March 30, Secretary of State Vance announced that both sides had agreed to set up working groups to discuss specific areas of arms limitation, including one for antisatellite weapons.[35] Prior to the meeting in Moscow, President Carter had issued Presidential Review Memorandum PRM/NSC-23 that directed the recently created NSC Policy Review Committee to review existing policy and formulate overall principles to guide US space activities.[36]

The Policy Review Committee worked on long-term issues and comprised of cabinet-rank officials from the relevant departments. However, due to the sensitive nature of the antisatellite issue an ad hoc Antisatellite Working Group made up of representatives from the State Department, DoD, CIA, JCS and ACDA and chaired by the Walter Slocombe (Principal Deputy Assistant Secretary for International Security Affairs) was set up. This group was separated from the main PRM-23 group to discuss ASAT related issues.[37] The ASAT Working Group combined with President Carter's interest in antisatellite arms control discussed US negotiating strategy and its relationship to the US ASAT programme. None of the group wanted to curtail the programme, yet neither did they support a crash programme. Instead the group favoured the development of the US programme in an orderly way that would facilitate the arms control process with the Soviet Union.[38] The group formulated the policy that the prospect of a US ASAT capability would provide an incentive for the Soviet Union to negotiate, and would provide leverage during the negotiations. In addition, if an acceptable agreement proved elusive, the United States would have an ASAT capability.

The question of what form of limitations the United States should pursue caused the most disagreement within the Working Group. The Department of Defence initially favoured the complete dismantlement of the Soviet ASAT system, but as a result of either growing scepticism about the verifiability of a comprehensive ban, or a desire to maintain some ASAT capability for the United States it favoured reaching a "rules of the road" agreement that would ban hostile acts in space.[39] However, the State Department and ACDA were more optimistic of a

[35] Press Conference of Secretary of State Vance, Moscow, March 30, 1977 in Labrie, *SALT Handbook: Key Documents and Issues*, p. 429.

[36] White House Press Release, "Description of a Presidential Directive on National Space Policy" (The White House, June 20, 1978).

[37] Paul Stares, *The Militarisation of Space*, p. 182.

[38] ibid., p. 183.

[39] ibid., p. 184.

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ban on testing and deployment. On September 3, 1977 the ASAT Working Group presented a range of arms control option to the President and on September 23 President Carter indicated his preference for comprehensive limits in the PRM/NSC-23 Decision Paper. The new Director of Defence Research and Engineering, William Perry summarised the directive at the defence budget hearings in 1977:

> The PRM/NSC-23 Decision Paper dated September 23, 1977, requires that we seek a comprehensive ASAT agreement prohibiting testing in space, deployment and use of AST capability ... To reduce the possibilty of a future space conflict, the President has directed that we seek an effective and adequately verifiable ban on anti-satellite systems with the Soviets. As a consequence of this decision an ineragency group – of which DoD is a part – has been making the necessary preparations for negotiating with the Soviets.[40]

The Presidential Directive's national security components remain classified, although the press release gave some indication of what had been decided:

> ...The United States finds itself under increasing pressure to field an antisatellite capability of its own in response to Soviet activities in this area. By exercising mutual restraint, the United States and the Soviet Union have an opportunity at this early juncture to stop an unhealthy arms competition in space before the competition develops a momentum of its own. The two countries have commenced bilateral discussions on limiting certain activies directed against space objects, which we anticipate will be consistent with the overall US goal of maintaining any nation's right of passage through and operations in space without interference. While the United States seeks verifiable comprehensive limits on antisatellite capabilities, in the absence of such an agreement, the United States will vigourously pursue development of its own capabilities. The US space defence programme shall include an integrated attack warning, notification, verigication and contingency reaction capability which can effectively detect and react to threats to US Space Systems.[41]

The press release was an offer of further US ASAT restraint in

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[40] US Congress, House, Subcommittee of the Committee on Appropriations, *Department of Defence Appropriations for 1979*, Hearings, 95th Congress, 2nd Session (1978), Part 3, pp. 726-7, quoted in Paul Stares, *The Militarisation of Space*, p. 184.

[41] White House Press Release, "Description of a Presidential Directive on National Space Policy" (The White House, June 20, 1978).

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return for reciprocal action from the Soviet Union. There was also a threat of a US space defence programme if the Soviet Union failed to conform.

Once President Carter had expressed his preference for comprehensive limits on antisatellites with PRM/NSC-23 the NSC began preparations for the negotiations with the Soviets. An Antisatellite Negotiating Working Group was established, although the departments represented were the same as the previous ASAT Working Group and as a result its membership was virtually identical. However, although PRM/NSC-23 had called for comprehensive limits on ASAT testing and deployment it had not specified how this was going to be achieved. The most important problem that arose was what activities and devices were to be prohibited. There was a large grey area over what systems constituted an antisatellite weapon. Electronic jammers and dual capable systems such as ABMs and ICBMs could all be used as a potential ASAT weapon. The Soviet Galosh exoatmospheric ABM system had a rudimentary ASAT capability.[42] A further important issue was how could a treaty prohibiting antisatellite weapons be verified. As the discussions continued the group became divided, the Defence Department became convinced that the a comprehensive agreement would not be possible nor desirable. The principal coalitions were ACDA and the State Department favouring a comprehensive prohibition and the Defence Department and the Joint Chiefs of Staff against such an agreement.[43]

The Defence Department believed that the Soviet's dedicated ASAT weapon would be impossible to verify since the SS-9 booster was used for other missions, notably for launching ocean reconnaissance satellites. The argument that the Soviets would not have confidence in using a covertly deployed ASAT system because it had not been tested was countered by the fact there were ways to disguise an ASAT test under the cover of activities such as spacecraft docking.[44] The State Department and ACDA on the other hand believed that the benefits of reaching an agreement would curb the more over antisatellite systems outweighted the risks of covert Soviet ASAT deployments. However, by March 1978, President Carter appeared to have become impatient with the negotiating group's division and decided to initiate formal discussions with the Soviet Union.

On June 8 of that year, talks began in Helsinki in the search for a

[42] Paul Stares, *The Militarisation of Space*, p. 194.
[43] ibid.
[44] ibid. p. 195.

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comprehensive ban on ASAT weapons. During the first round of talks the US delegation headed by ACDA director Paul Warnke, position was to explore the extent of Soviet interest and thinking on the issue of ASAT arms control. The United States began the negotiations by proposing a complete prohibition of antisatellite weapons. However, it appeared that the Soviet delegation had not given serious thought to antisatellite arms control prior to the talks and subsequently asked for more time to consult with Moscow.[45] In addition to the prohibition of antisatellite weapons, the US delegation explored various interim agreements which included a moratorium on the testing of antisatellite systems and a "non-interference" agreement. The Soviet delegation, headed by Oleg Khlestov, Head of the Treaty and Legal Affairs division of the Foreign Ministry wanted a guarantee from the United States that the space shuttle would not be used as an antisatellite weapon. However, the United States delegation had been ordered in advance to keep the space shuttle as a non-negotiable subject.[46]

The next set of talks began on January 16, 1979 in Bern. The United States delegation sought from the Soviet delegation the range of possible agreements. It became apparent that the Soviets were willing to discuss a moratorium on anitsatellite testing, they were not prepared to discuss the dismantlement of their antisatellite system. This position would have allowed the Soviets with their antisatellite capability intact while the United States would have been not permitted to develop its own system on a par with the Sovet system. It was therefore unacceptable to the United States' delegation. The only common ground was a non-use agreement.[47] However, there were problems with this too. The Soviet position was that the non-use would apply only to US and Soviet satellites leaving allied satellites which were vital to NATO vulnerable. The Soviets also persisted with their objections to the space shuttle.

The third set of talks began on April 23, 1979 in Vienna and subsequently turned out to be the final talks. The combination of the Soviet's unwillingness to dismantle its satellite interceptor and the Defence Department's opposition to a comprehensive agreement, the US delegation composed a two-stage strategy. The United States would seek a no-use agreement possibly combined with a moratorium on antisatellite testing in the short term to be followed in the long run with an

[45] ibid., p. 196.
[46] James Canan, *War in Space*, (Harper & Row Publishers, New York: 1982), pp. 24-25.
[47] Paul Stares, *The Militarisation of Space*, p. 198.

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agreement to prohibit the hardware.[48] Progress was made during the talks of a no-use treaty and a test moratorium was discussed with the United States in favour of a short term moratorium and the Soviet Union in favour of a longer term one for reasons discussed above. However, further progress was prevented in the redrafting of a treaty regarding no-use by the Soviets repeated objections to the space shuttle and their desire to restict a no-use agreement to only US and Soviet satellites. In addition to this, the Soviets also reserved the right to circumvent a "no-use" agreement if "hostile or pernicious" acts by a foreign satellite infringed their national sovereignty. This was interpreted as a Soviet wish to prevent the potential use of direct broadcasting satellites for propaganda purposes.[49]

This round of talks was adjourned with the prospect of a fourth to be held in the Autumn. However, further talks were delayed by the pursuit of SALT II discussions which were occuring and became the overriding priority of the Carter administration. Some officials in the Carter administration felt that the Joint Chiefs of Staff's support for SALT II might be at stake if they pushed too hard for an antisatellite agreement. The ensuing delay to the negotiations and the Soviet invasion of Afghanistan in December 1979 meant that any notion of an ASAT agreement was thwarted. There were a number of attempts within the administration in 1980 to reconvene the negotiations, mainly from within the State Department and ACDA and the Soviets too informally showed some interest in the resumption of talks. However, with Soviet ASAT testing resuming on April 3, 1980 the Carter administration gave up any hope of an agreement before the US presidential elections in that year. The subsequent election of President Reagan brought US interest in an ASAT arms control treaty to an end.

The US Antisatellite Programmes Since The End of the Cold War

The demise of the Soviet Union did not seem to have a corresponding effect on antisatellite proposals in the United States. Proposals in the early 1990s were argued from the Cold War premises which had dominated the debate since the issue arose in the Kenneday Administration. These premises were founded on the "space as a sanctuary" argument, that antisatellites would undermine strategic stability and the argument that an arms race in space would occur. The flaw in these premises was that with the disintegration of the Soviet Union, the arms

[48] ibid.
[49] ibid., p. 199.

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race in space issue combined with strategic stability were inextricably linked with a fully fledged adversary to maintain this relationship. The Gulf War in 1990-91 also changed the equation with the realisation of the importance of space in warfighting during the campaign, and the possible effects if these assets were threatened.

The strategic arguments that had dominated the earlier ASAT debates began to dissipate in the post Cold War and post Gulf War, except in the purist position of supporting space as a sanctuary. However they were replaced by other concerns. The Clinton Administration let its opposition to military space programmes be known both in words and actions.[50] ASAT proponents including retired Air Force General Charles Horner and Secretary of the Air Force attempted to raise the ASAT issue as one that needed addressing.[51] This was met with considerable opposition from the Clinton Administration which followed the space sanctuary view and did not support the notion of a requirement for ASAT weapons. In particular, the Clinton Administration resisted the Army's Kinetic Energy Anti-satellite (KE-ASAT).[52]

However strong Congressional support, through Senator Bob Smith have backed military space programmes and kept some of them in existence in the face of opposition from both the Clinton Administration and intra-service ambivalence. For example, Congress approved $30 million in 1996 for funds for KE-ASAT but was rescinded by President Clinton. Congress rejected that action on June 9, 1996 by witholding money from some of the administration's favoured projects.[53] However with the FY 1998 budget Clinton vetoed specific programmes from the budget which included the KE-ASAT, and cut $38 million from the project. Congress however managed to keep the KE-ASAT programme going and in May 1998, KE-ASAT scientist Mark Fisher stated that: "If there's money available we could conduct a proof of principle flight within 18 months. I would need $65 million to do two flight tests."[54] There was funds available in 1999 but this was from the previous year's funding. A request for an infusion of $41m for the FY00 budget was

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[50] Joan Johnson-Freese, "The Viability of U.S. Anti-Satellite Policy: Moving Toward Space Control", *Institute for National Security Studies Occasional Paper 30*, January 2000, p. 24.

[51] Steve Weber, "ASAT Proponents Fail to Reverse White House Policy," *Space News*, September 19-25, 1994, p. 7.

[52] Pat Cooper, "U.S. Political Battles Threaten Antisatellite Project," *Space News*, June 17-24, 1996, p. 6.

[53] ibid.

[54] Jonathan Wright, "U.S. Military Moves Closer to Star Wars", *Daily Telegraph*, May 21, 1998, p. 4.

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requested to keep the programme going although this was subject to political opposition.[55]

The Mid Infrared Advanced Chemical Laser (MIRACL) in existence at White Sands testing range in New Mexico is perhaps closer to deployment than the KE-ASAT. It was originally an SDI anti-missile programme, but is in the process of being adapted into a laser for use against satellites. In addition to MIRACL the Pentagon is working on both excimer and free-electron lasers as ground-based ASAT systems.[56] These directed energy systems are able to respond in a more timely manner that kinetic energy systems. On October 17, 1997 the US Army Space & Missile Defence Command used the Mid-Infrared Advanced Chemical Laser (MIRACL) ground based laser to illuminate the MSTI-3 satellite in what was a test of satellite vulnerability.[57] The target satellite the MSTI-3 (Miniature Sensor Technology Integration) which was in a 265 miles circular polar orbit carried a mid-infrared, near-infrared, and visual focal plane array with a telescope and had finished its intended mission. The MIRACL used various power levels on the target satellite when it was 60-70 degrees above the horizon. The satellite and its sensors were not damaged since the intention was to test the level at which the laser caused the degradation of the sensor.[58] The MIRACL used excited deuterium fluoride molecules to produce 3.8 micron wavelength light for good atmospheric transmission. The power output is around 2 megawatts. The beam was aimed by the Hughes Sea Lite beam diretctor.[59]

The internal prioritisation given to these programmes was initially not high. The particular importance given by the military's policy and programmes can be determined by whether or not they appear in the Five Year Development Plan (FYDP) from which the services plan and what organisation takes the lead. When funds are unrequested by DOD or the individual services it can be assumed that the programmes are rogues rather than mainstream priorities. In this instance the programmes were advocated from Congress, in particular the Senate, rather than the services themselves.[60]

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[55] Joan Johnson-Freese, "The Viability of U.S. Anti-Satellite Policy: Moving Toward Space Control", pp. 25-26.

[56] Joan Johnson-Freese, p. 26.

[57] Michael A. Dornheim, "Laser Engages Satellite, With Questionable Results", *Aviation Week & Space Technology*, October 27, 1997.

[58] ibid.

[59] ibid.

[60] ibid.

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The rationale behind the acquisition of a US ASAT weapon system is that obtaining a proved means of disabling a satellite will discourage other countries from relying on them too heavily. The testing of an ASAT system would allow the military the confidence that it would be able to control the use made of space by future adversaries. It is this argument which weighs heavily in the thinking of the US military which is vital to its future military operations.

The major aspect during the period after the demise of the Soviet Union and de facto end of the Cold War was the enormous contribution space systems made the campaign to oust Iraq from Kuwait. The possible loss of these satellites led defence policymakers to address the issue of space control, especially the aspect of space denial. In order to operate such a policy of space denial, the United States has to acquire an ASAT capability, either Ke-ASAT or a directed energy weapons system. This space policy imperative has seen the development of an ASAT become a higher priority, especially in the light of President Bush's election victory, and the appointment of Defence Secretary Rumsfeld, who had chaired a commission to assess US space requirements. These factors are currently driving the requirement for an antisatellite capability.

Indeed the "The Commission to Assess US National Security Space Management and Organisation" chaired by Rumsfeld added impetus to the case for developing an antisatellite capability. The prestige of what is known as the Space Commission was further enhanced when its chair was subsequently given the post of Secretary of Defence. The Commission highlighted the enormous vulnerability of the United States space assets to possible attack and strongly emphasised the United Stats dependency on these assets.[61] The strong emphasis and the political clout of the Space Commission highlighted one of the major rationales for developing an ASAT capability. Namely, the requirement to be able to disrupt an adversaries space capabilities perhaps to deter an adversary from undertaking an attack on US space capabilities, but at least to be able to conduct some form of retaliatory attack on an adversary's space assets. To ensure that the adversary is unable to glean advantage of its space assets during a conflict, whilst the United States had lost its military space capabilities. The Space Commission states that "the US must have the capabilities to defend its space assets against

[61] The Commission to Assess US National Security Space Management and Organisation, (Washington D.C., US Government Printing Office), January 11, 2001

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hostile acts and to negate the hostile use of space against U.S interests."[62] It goes on to advocate a US ASAT requirement by declaring that "The US will require means of negating satellite threats, whether temporary and reversible or physically destructive."[63]

The Space Commission provided invaluable political pressure for the United States to develop an antisatellite capability. The report provided a timely reminder of the United States vulnerability to space threats and its current lack of ability to deal with such threats. The advocacy of an antisatellite capability by the panel of experts should contribute greatly to the antisatellite debate, and provide an impetus to the politics of acquiring such a capability.

The initial thinking towards an ASAT capability was clouded in the belief that it was against the interests of the United States, in the misguided notion that if the United States developed an ASAT capability the Soviet Union would. Since the United States was more reliant on reconnaissance information than the Soviets, this meant that the United States would have more to lose from an ASAT exchange. Therefore throughout the period upto 1970 the rationale for an ASAT development was as a possible hedge against an unforeseen Soviet space threat. The ASAT policy shifted after this period in that an ASAT requirement was that the United States should match the Soviets in order to deter attacks on US satellites. The Ford and Carter administrations shifted this position yet further, in that they highlighted the Soviet ASAT threat as the rationale for developing ASAT weapons. The Reagan policy on ASAT added a rationale to an ASAT for deterrence purposes. This addition was the requirement of an ASAT to negate Soviet space systems designed to assist an attack NATO allies. The rationale was therefore broadened to include allies.

Since the end of the Cold War, one of the issues driving policy to acquire an ASAT capability are comprised in the formulation of a space control policy, which has its roots in the contribution military space systems made during the ejection of Iraq from Kuwait. This space control policy appears to be driving the United States to acquiring an ASAT capability more so now, than at any other occasion during the Cold War.

[62] Ibid., p. 13.
[63] Ibid., p. 29.

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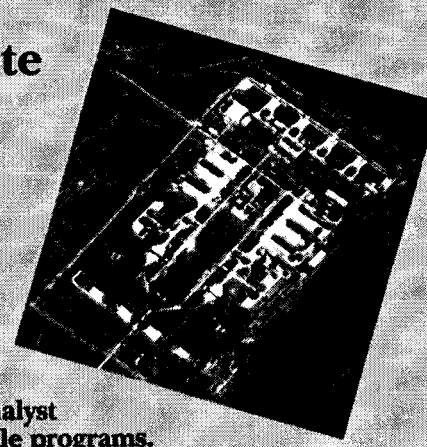
The ABM Treaty Charade:

A Study in Elite Illusion and Delusion



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US Immigration Policy: Asylum-Seekers and Refugees

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Until well into the second half of the twentieth century, immigration into the USA was largely from Europe, the continent from which the founders of the United States had themselves come. However, in recent decades this pattern has been reversed in order to favor non-European immigrants. More recently international resolutions have obligated the US and other participating countries to accept "asylum-seekers," essentially depriving these countries of control over their own immigration and future demographic composition. The author her considers the impact of these changes on US Immigration policy.

Key Words: Refugees, asylum-seekers, US immigration, US Immigration and Naturalization Service, US Refugee Protection Act, U.N. Refugee Convention, UN Convention Against Torture.

Asylum remains one of the least understood policy issues in America today. Shifting from a basis of largely serving foreign policy goals to one that serves global humanitarian aims, it is more complex than ever. It should be fertile ground for serious public discussion, combining as it does several current issues – immigration, human rights, foreign relations, the influence of special interest lobbies, the decline of national sovereignty, and the rise of international law. Despite this, public awareness of the issue does not get beyond the occasional human-interest story of individual asylum seekers and their struggles. Issues include:

Just seven days after the September 11 attacks, the administration recommended the admission of 70,000 refugees for fiscal year 2002. Though the proposed refugee quota was finalized prior to September 11, the document containing the proposal was issued by the National Security Council after September 11 with no footnotes or reference to the events of that day, according to a State Department source who wishes to remain anonymous. Shortly after, refugee admission was temporarily halted pending a review of the refugee selection process and a review of security for those federal government personnel who travel the world considering candidates for the US program. Refugee

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admission has resumed with more in-depth background checks for refugees and a scaled back outreach program in areas of the world considered risky.

The events of September 11 cleared away some of the clouds obscuring refugee and asylum immigration, but what became the story was not news about a refugee program that had been on autopilot for years, but the "moratorium" that had been imposed on the admission of women and children refugees. Some experts say the program will bring in fewer than originally planned this year, perhaps 45,000 to 50,000, but with time the program will return to original levels. In fact, with the war on terrorism, it might even grow larger in coming years.

Admission of asylum seekers is also likely to continue at historically high levels after a brief slowdown. The terms "asylum seeker" and "refugee", often used interchangeably, have distinct and separate definitions in US law. The 1980 Refugee Act (Public Law 96-212) incorporating the 1951 U.N. Refugee Convention and its 1967 Protocol, defined a refugee or asylum seeker as someone who is unwilling to return to his or her country out of a "well-founded fear" of persecution "on account of race, religion, nationality, membership in a particular social group, or political opinion." A formal infrastructure of federal and state agencies and private charities functioning as federal contractors helps intending refugees initiate requests for "status," arranges transportation to the United States, and navigates the maze of health, welfare, and other services available to refugees upon arrival in the United States.

Unlike many refugees, have managed to get to US shores on their own, most commonly on a non-immigrant visa such as a tourist or work visa. Asylum claims can be and are made from US territories such as Guam. About a quarter of asylum petitions are made by those who arrive at a US port of entry without valid documents. An asylum seeker must demonstrate a "well-founded fear" of persecution on the same basis as a refugee and, once granted asylum, enjoys the same entitlements under US law and theoretical protections under international law that extend to refugees.

Most refugees to the United States in the 1980s and 1990s arrived under broadly designated categories without necessarily meeting persecution standards set forth in the 1980 Act. Acceptance rates of asylum petitions, like the designation "refugee," reflected cold war priorities. Asylum seekers from our enemies were much more likely to be welcomed than those fleeing countries that were on allies. Thus,

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refugee-sending countries become asylee-sending countries as well.

Conferring extraordinary immigration privileges on one group brought demands from other groups for the same privileges. Ethnic lobbies united around campaigns to increase numerical quotas and benefits for refugees and asylees while jockeying among themselves for influence over the breakdown and distribution of the quotas. All refugee flows vastly outstripped original projections, fueled in no small part by the fact that refugees entered the ranks of salaried service-providers and lobbyists for future generations of refugees. Annual average refugee immigration ran at slightly more than 100,000 individuals a year through the 1990s – more refugees than all other nations together except for *permanent* resettlement. As well, about 20,000 Cubans arrive each year with refugee-like privileges. Of course, when considering refugees who have "temporarily" resettled outside their home country, poorer countries like Iran and countries in Africa bear a disproportionate impact from transnational refugee flows.

While it is necessary to explain the refugee program in order to understand asylum, this paper will leave a full discussion of the refugee program for another day, focusing instead on asylum and related issues. The 1980 Refugee Act anticipated grants of asylum to only about 5,000 individuals a year. In the year 2000 about 30,500 were granted asylum.[2]

A Question of Numbers

In 1995, applications for asylum were filed for approximately 200,000 individuals, a number that nearly equals the annual average immigration from all sources throughout US history until 1965.[3] This number was slightly inflated by re-submitted applications and a "one-time" large-scale grant of asylum. Clearly, though, the trend in the early 1990s showed a massive acceleration in asylum immigration that could have overwhelmed the system.

The vast majority of asylum claims were being rejected as groundless or fraudulent, but that had little impact on the overall numbers of individuals remaining in the country. Most claimants whose applications

[2] 2000 is the latest year with complete data. 30,500 is the sum of "defensive" asylum cases (applicants were out of legal status) and "affirmative" asylum cases (applicants had arrived legally). The respective numbers for defensive and affirmative individual asylum seekers – 8,800 and 21,700 – were supplied by Rick Kenney of the Executive Office of Immigration Review and William Strassberger of the INS.

[3] 1995 Statistical Yearbook of the Immigration and Naturalization Service. Table 30. The table lists 149,065 applications for 1995; however, more than one person can be included on each application (i.e., other family members). The INS's William Strassberger believes that using a multiplier of 1.3 results in an accurate number of individuals covered by those applications.

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were rejected remained in the country, often disappearing or launching lengthy appeals that dragged on until the claimant found some other means of gaining permanent residency. It was an open secret around the globe that claiming asylum was a means of immigrating to America.

That things had gotten out of hand was acknowledged at all points along the political spectrum. Former N.Y. mayor Ed Koch lamented in TV interviews that all it took to get through immigration at Kennedy airport was "two little words – political refugee."

Even Sen. Edward Kennedy (D-Mass.) declared "The asylum system has broken down and it's up to the Congress and the administration to fix it."[4]

INS Commissioner Doris Meisner said in 1994 that "people with no legitimate claim to asylum are applying in record numbers, some brought by smugglers, some using fake documents, and some overstaying the visas granted to them as visitors."[5] Speaking in 1995, she added: "...fraudulent asylum claims [are] routinely used as a backdoor way to enter the United States."[6]

In response to the rising number of frivolous asylum claims, extensive regulatory and legislative changes were made in 1995 and 1996. (For a thorough discussion of these changes, see David A. Martin's 2000 Backgrounder, "The 1995 Asylum Reforms, a Historic and Global Perspective") The 1996 IIRAIRA (Public Law 104-208) included asylum reforms directed at those who show up at US ports of entry without valid admission documents. Today, as before the 1996 reforms, any such individual can claim flight from persecution and, if the claim is successful, change status from "illegal alien" to "asylum seeker." The 1996 law devolves some of the decision-making about the legitimacy of an asylum claim to lower-level officials at the beginning of the process instead of deferring to courts at the end of the process.

It also provides for deportation of individuals who do not establish a "credible fear" of returning home during the course of a question and answer interview with an INS asylum officer. Known as "expedited removal," this represents a significant departure from earlier standard operating procedure. It denies the right of appeal through the immigra-

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[4] Arnold, Michael S. "Calls to Change Asylum System Gain Urgency." The Washington Post, June 13, 1993, p. A24.

[5] Suro, Roberto. "U.S. Tightens Rules for Political Asylum Seekers." The Washington Post, March 30, 1994, p. A3.

[6] Goshko, John M. "Revised Political Asylum System Shows Promise in Early Stages." The Washington Post, July 9, 1995, p. A16.

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tion courts to those who do not make their case in the initial "credible fear" interview under the legal grounds that such individuals have not entered the country and thus do not have all the constitutional rights of a person residing in the United States. Also, those who are deemed eligible to seek asylum may be detained while their claim is sorted out, though only a minority actually wind up in detention. Those who clear the first interviews with an INS asylum officer, like those who arrive legally on a temporary visa and later file for asylum, have the right of appeal through the immigration courts and then through the federal courts. In FY 2000, under expedited removal, 86,000 were removed and another 125,000 voluntarily departed soon after arrival.[7]

The law today mandates detention of asylum seekers until their asylum request is adjudicated when there is a flight risk, no clear means of support is available, or when the INS has reason to believe the applicant is not who he says he is. This reflected Congressional concern over the February 1993 World Trade Center bombing and the terrorist attack near the CIA headquarters that year. Some of the leading actors in these incidents were asylum seekers who had been released pending the outcome of their asylum claim.

Detention and deportation of asylum seekers are contentious issues and were becoming the stuff of pre-9/11 Congressional hearings and Hollywood protests. Even the Bush-appointed head of the INS, James Ziglar, came to the post vowing to do something about expedited removal and detention.

Isolated cases of bureaucratic ineptitude and abuse of detainees provided a public relations boost to the broad array of advocacy groups attempting to overturn expedited removal and weaken detention provisions. The image of innocent immigrants in jail had been used to good effect by advocacy groups' "Fix '96'" campaign, in a debate that is almost totally defined by public relations and media images. The actual detention statistics for asylum seekers – roughly 5 percent of those granted asylum in 2000 spent any time in detention, and those for an average stay of 35 days[8] – belie a media-fostered image of asylum seekers routinely thrown into jail upon arrival.

World Trade Center 2 has stalled the Refugee Protection Act of 2001 (S.1311), a major legislative effort aimed at liberalizing asylum

[7] Personal communication with William Strassberger of the INS, February 4, 2002, and Elaine Komis, EOIR.

[8] Personal communication with William Strassberger of the INS, February 4, 2002

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Asylum Applications Filed With the INS, FY 1980-2001

Year	Applications Received [1]
1980 [2]	26,512
1981 [2]	61,568
1982	33,296
1983	26,091
1984	24,295
1985	16,622
1986	18,889
1987	26,107
1988	60,736
1989	101,679
1990	73,637
1991	56,310
1992	103,964
1993	144,166
1994	146,468
1995	154,464
1996	128,190
1997	85,866
1998	54,952
1999	42,207
2000	48,054
2001 [3]	64,731

Source: U.S. Committee for Refugees.
[1] More than one person can be included on each application. A multiplier of 1.3 gives a reasonable estimate of the number of people covered.
[2] Data have been estimated due to changes in reporting procedures.
[3] Data are preliminary. Includes 59,432 newly filed and 5,299 reopened cases.

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admission. It may seem unnecessary to devote discussion to a bill that is now off the table, but such efforts have been "delayed, not derailed," according to J. Kevin Appleby, Director of the Office of Migration and Refugee Policy at the Conference of Catholic Bishops. Aides for Senators Patrick Leahy (D-Vt.) and Sam Brownback (R-Kan.), legislative sponsors of the Refugee Protection Act, are confident that a return to "normalcy" will mean passage of the bill in 2002.

Though not intended as a protection for the average undocumented immigrant apprehended crossing the border with Mexico, the fact is, under the Refugee Protection Act, no one making an asylum claim, regardless of its implausibility, would be denied the right to counsel and right of appeal through immigration courts and federal courts. Further, the law would require the United States to explain those rights in the applicant's own language. Expedited removal would be ended except for "immigration emergencies." Instead of detention, those awaiting adjudication of their claim would be released to the supervision of 10 large "voluntary agencies" and their affiliates. The "volag" affiliates comprise hundreds of non-governmental agencies, most organized along ethnic and racial lines and dedicated to increasing the flow of their own countrymen as asylum seekers and refugees.

For most asylum seekers, the asylum process is a matter of getting to the United States on any valid visa and then walking into any of a number of immigration law offices or government-supported charities. US Catholic Charities alone has over 100 offices where a visitor to America with, say, a tourist visa can pay $200 to have an asylum application filled out and receive advice about how to act in a hearing with INS asylum officers. This is the way asylum is done in America today. Under the Refugee Protection Act it will be almost as easy to file an asylum claim for those who simply show up on US shores without valid immigration documents.

Today about 75,000 individuals seek asylum annually. In a dozen interviews with aides to Senate sponsors of the bill, officials at the INS and the Executive Office of Immigration Review, and refugee NGOs, no one would hazard a guess as to how much of an impact the bill might have on this number. Most agreed the Refugee Protection Act would result in an increase in both the number who seek asylum and the number who are granted asylum.

Most important may be the number of those attempting to gain asylum, as this leads directly to illegal immigration. Simply put, there will be more opportunity to make an asylum claim and then disappear.

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A reversal of key asylum components of the 1996 reforms would lead to renewed large-scale asylum immigration. The number of asylum seekers could go well beyond even the numbers seen in the mid-1990s for several reasons. Migratory flows have exploded around the globe. With the end of the Cold War, the United States is less inclined to give national interest weight in refugee and asylum policy, preferring instead to define its role as one of "international burden sharing" and humanitarianism. Also, asylum and refugee flows are no longer the concern of private charities taking risks and committing their own resources, conditions which, in the past, provided an element of control and stability over the process.

Insane Asylum

Even without legislation like the 2001 Refugee Protection Act, there are enormous upward pressures on asylum numbers arising from the changing definition of asylum. Although asylum seekers, like refugees, must prove persecution, the definition of persecution has proven to be highly malleable. Legal spadework has made asylum possible for a population that dwarfs that envisioned by the 1980 Refugee Act's authors.

Besides changing the original reading of the refugee law, which held that persecution means persecution by the state and not "generalized violence," the courts, legislation, and executive orders have expanded the definition of the categories (religious, political, social group, race, nationality) specifically protected by a grant of asylum in the United States. Thus, individuals who claim to be fleeing China's one-child policy are considered to be "persecuted" on account of membership in a "political group."

The legal category "particular social group" has proven to be particularly useful. In March 2001 the 9th Circuit US Appeals Court found in Aguirre-Cervantes v. INS (Case No. 99-70861) that a 19-year old Mexican woman, Rosalba Aguirre-Cervantes, was persecuted on the basis of membership in a "particular social group" – the social group being her family and the persecutor being her father. A lower court had placed her in a different social group ("abused Mexican children") but hadn't connected the other dots to establish the case for asylum. In the latest appeal, the court needed to establish that the Mexican state was unwilling or unable to provide protection to the asylum claimant. Her lawyers presented evidence that domestic violence in Mexico is "pervasive, officially tolerated, and in some areas, legally approved."

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The court agreed and granted asylum.

Recent court rulings extended membership in the protected legal category "particular social group" to battered women, homosexuals, children of abusive parents, women fleeing female genital mutilation (FGM), and persons with disabilities.

It is a commonplace that universal human rights will be the ultimate solvent of national sovereignty: "The age of nations must end, the era of humanity begin," according to the Preliminary Draft of a World Constitution published by the Committee to Frame a World Constitution in the late 40s.)[9] The concept of international law has arguably made the most impact on US sovereignty in decisions about who can immigrate is being supplanted by international mandate. The Convention Against Torture (CAT)[10] is the latest and potentially the most restrictive of several U.N. human rights conventions ratified by Congress that relate to asylum.

Binding on US law since March 1999, the convention holds that anyone who could be tortured if returned home must be given asylum. Where other forms of asylum are extended at the discretion of the United States and therefore represent a theoretical "national will" (which could be changed at some time), Torture Convention asylum overrules US intentions and is mandatory. Unlike other forms of US asylum, this protection extends unconditionally to criminals, even to torturers, mandating asylum for anyone who meets the criteria outlined in the law. Convention asylees are not subject to the immigration bar that relates to those with TB or HIV. Under Convention asylum, the only points that can be argued are what constitutes torture, whether the claimant would "more likely than not" be subject to it, and whether or not such torture is the work of a state agency or is carried out with the "acquiescence" of the state. State-administered punishment that is "arbitrary" or "cruel and unusual" is torture under the law. Legal experts agree that the death penalty for drug dealing or economic crimes would qualify as torture under the law, as would any number of punishments used by states today under Islamic law. According to Amnesty International, 125 countries practice state-sponsored torture. The United Nations High Commissioner for Human Rights, Mary Robinson, declared the Chinese practice of detention in re-education and labor camps to be torture under the Convention.

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[9] Hutchins, Robert. Preliminary Draft of a World Constitution. Chicago, Ill.: University of Chicago Press, 1948.

[10] **http://www.unhchr.ch/html/menu3/b/h_cat39.htm**

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The Convention offers great potential for broadening the definition of asylum criteria. The requirement of state persecution in such cases will not deter its use, as the evolution of asylum law has shown that if the state is incapable of totally eradicating cultural practices and social behavior that fall outside western norms then it "acquiesces" to them.

Jailhouse of Nations

In recent testimony before Congress, the INS seemed anxious to allay concern that the Convention Against Torture is abused by criminals, such as Haiti's Emmanuel "Toto" Constant, founder of Haitian paramilitary organization FRAPH, which is blamed for a wave of murders and other atrocities. Some of criminals who obtain asylum in the US can be prosecuted in US courts under the "international jurisdiction" clauses of the Convention, although the United States is already known as a haven for criminals fleeing retribution at home. The fact remains that the possibility of an encounter with the US justice system would hardly be a deterrent to immigration for someone who faces retribution for, say, genocide at home. According to INS General Counsel Bo Cooper, "the stringent standards set out in the new torture regulations are not resulting in overbroad protection for criminal aliens...but it is still early to assess fully the progress of interpretive law development."[11] In other words, as with all such statues, the Convention will go through a ramp-up period as precedent builds upon precedent and the legal arts develop the full potential of the law.

Approximately 600 Convention asylum claims were granted in the first 16 months after implementation of the law – not a large number, but eligibility standards and the definition of terms will doubtless prove as elastic as those found under other asylum laws. This together with its inflexible hold over US law could make it a powerful engine of humanitarian immigration in the future.

Refugee and Asylum Policy in the National Interest

US foreign policy has hardly disappeared from refugee policy, though its role is greatly diminished compared to policy based on the claims of humanitarianism. It may be more accurate to say that US foreign policy is converging with broadly defined humanitarian ideals at the expense of the US national interest and that these changes have implications for refugee and asylum policy. For instance, Congress

[11] Testimony of Bo Cooper, INS General Counsel, before the House Judiciary Committee Subcommittee on Immigration and Claims on September 28, 2000. Available on line at: **http://www.house.gov/judiciary/coop0928.htm**

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committed to protect religious freedom internationally with passage of the International Religious Freedom Act of 1998 (Public Law No. 105-292),[12] which establishes a new federal office and mandates an annual State Department report on the state of religious toleration around the world, in effect providing talking points for asylum lawyers seeking to make the case for asylum from countries listed in the report.

In its 1999 report to the President, the Advisory Committee on Religious Freedom Abroad called for "meaningful protection to the victims of religious persecution. We must upgrade domestic procedures that identify and protect refugees and asylum seekers fleeing religious persecution. We must strengthen our overseas refugee processing mechanisms to reach those in need of rescue... And, here at home, we must eliminate processes such as 'expedited removal' that can make victims of those fleeing religious persecution rather than providing access to protection."

The Trafficking Victims Protection Act of 2000[13] provides for non-immigrant visas for certain of those trafficked to the United States for the sex trade if they are under 18 or can show they were forced into the trade. Regulations implemented in July 2001 provide for services for the victims of trafficking such as housing, medical care, translation services, and information about their rights. The new T visa is temporary and carries an obligation on the part of the holder to cooperate in the prosecution of trafficking crimes, but there is nothing so permanent as a temporary visa, and those who traffic in asylum seekers will note a State Department estimate that 45,000 to 50,000 of these "modern-day slavery" victims are trafficked annually into the United States.

Congress will doubtless pass the Unaccompanied Alien Child Protection Act (S.121, sponsored by Dianne Feinstein (D-Calif.), Bob Graham (D-Fla.), and Edward M. Kennedy (D-Mass.), affording immigration privileges to those children "parachuted" into the country by their parents or by smugglers. Children paroled into the country on an ad hoc basis have already begun petitioning for their parents to join them in the United States. This bill will institutionalize this avenue of asylum immigration.

Speculation about the United States taking some Palestinian refugees as part of a US-brokered Middle East peace settlement has been muted of late, but a State Department source said that, in spite of the

[12] **http://www.state.gov/g/drl/rls/irf/2001**
[13] **http://www.state.gov/g/inl/rls/tiprpt/2001**

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September attacks, this likely will happen within a few years.

The fact that the United States annually takes in about 10,000 former Soviet "evangelical" refugees (more than half of whose recently arrived family units have at least one member receiving an SSI or TANF check)[14] and has no official refugee program for China, the main source of asylum seekers, shows how far we are from the utopian ideal of humanitarian admissions standards free from political considerations. But that is changing, with unpredictable and possibly explosive results.

The main source of refugees and asylum seekers is shifting from former communist countries to Africa and the Middle East, as "international burden sharing" and "diversity" become watchwords of the program. Refugees are now far more likely to be resettled to the United States from refugee camps upon the recommendation of the U.N. High Commissioner for Refugees (UNHCR) than was the case before. The United States sends so-called "circuit riders" to refugee camps around the world looking for candidates to come to America as refugees. Some of the circuit riders have reportedly caused riots at camps among refugees attempting to apply for the US refugee program.

All refugee flows bring concomitant asylee flows because of the implied legal basis for asylum, not to speak of the usual networking that goes on between new arrivals and those left behind. As we have seen, improved prospects for asylum bring increasing numbers of undocumented immigrants hoping to use asylum as a means to gain entry.

Safe Haven?

At some point it will be asked if those fleeing the world's horrors are actually finding refuge from them in the United States. For example, FGM is illegal in the United States yet the CDC has estimated that 150,000 females in the United States are at risk for or have undergone the operation. Indeed, there is a thriving back alley practice in FGM in the United States which some are reluctant to condemn under the theory that to do so would be "culturally insensitive." A recent study of Latina immigrants in Washington, D.C., found that nearly half were in relationships abusive enough to qualify for a court's protective order, according to Leslye Orloff, an immigration expert for the NOW Legal Defense Fund.[15]

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[14] US Department of Health and Human Services, Office of Refugee Resettlement, FY 1999 Report to Congress.

[15] Hass, Giselle Aguilar, Mary Ann Dutton, and Leslye Orloff. "Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications." Excerpted from Domestic Violence and Immigration. Washington, D.C.: NOW Legal Defense and Education Fund, 2000.

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The US Commission on Civil Rights Chairwoman, Mary Frances Berry, has said "This nation's immigration policies and the way that they are implemented have obvious civil rights implications involving race, national origin, and religious discrimination issues....asylum seekers have not only suffered under an oppressive regime in their native countries, but subjected to racial, ethnic, religious, and gender bias upon their arrival."[16] She could have added that much, if not most, of that bias is rooted in the very enclaves where the "oppressive regimes" are being replicated.

The outcome of a successful asylum claim is permanent residence in the United States, a country far wealthier and more stable than the claimant's home country. It also means instant eligibility for all public assistance programs, an entitlement available to non-refugee immigrants only after receiving citizenship. This is no longer a low-profile benefit for a handful of entrants and it will be even more visible in the future as native-born citizens are removed from the rolls of time-limited welfare programs.

As a result of these benefits and the kaleidoscope of choices available to justify an asylum claim, it is not surprising that a global industry has sprung up offering asylum as a means of immigration to the United States. Virtually every ethnic newspaper in America offers the services of asylum and immigration consultants, with unscrupulous operators promising to provide intending asylum seekers with "unique stories of persecution." Freelance immigration consulting is a well-paid and growing field. Political fundraising goes naturally with this line of business, as we learned from America's most famous immigration consultant Maria Hsia, who was involved in the Clinton administration fundraising scandals.

A network of government agencies and government-backed NGOs exists to ease refugees and asylees into American life. The US Commission on Civil Rights, "crossing borders" with its message of rights, spearheads "language rights" lawsuits to force social services providers to offer "culturally relevant" services in the language of its newly arrived clientele. At refugee conventions – elaborate affairs held in luxury venues like Washington's Mayflower Hotel – the civil rights establishment explains its latest line of services and refugee workers learn how to maximize public dollars. A favorite grant is the misnamed Federal

[16] Gamboa, Suzanne. "Immigration Laws to Be Scrutinized." AP Online, December 8, 2000.

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Match Grant program, where every dollar's worth of volunteer time or donated items brings a $1.40 "match" from the federal government.

The same revolving door linking contractor to federal procurement agency links refugee NGOs and the federal government. Like any other government-dependent industry, advocates for higher levels of refugee and asylee admission often express their needs in terms of the employment it provides, but without mentioning that much, if not most of the employment goes to the new arrivals themselves. There is no better illustration of the axiom "public money drives out private money" than the NGOs' steadfast refusal to use a federal program known as the Private Sector Initiative. This program allowed sponsoring agencies to bring over refugees if the agencies were willing to cover costs of resettlement and support, but was discontinued for lack of use in the mid-1990s.

Asylum Without End

According to the UNHCR, the world's wealthiest nations spend 10 times more on maintaining their asylum systems than on funding for the UNHCR's protection work in the developing world for the 21 million refugees in its charge.[17] This multiplier is much greater when one includes Western nations' costs for social services for those granted asylum.

Yet the bulk of the burden for hosting the world's large numbers of genuine refugees and asylum seekers still falls to the developing world. The West could never widen avenues of immigration enough to alter this fact without seriously undermining its ability to offer assistance in alleviating the conditions creating the flow. If some "international protection regime" is to be established, it must be based upon increased attention to the hardship of those refugees in the regions where they reside, not on mass migration to the developed world. This will require dealing effectively with the "push" factors such as overpopulation, poverty, and political instability which are driving asylum seekers and refugees to American shores.

Other forces are at work in asylum immigration, among them: the ongoing separation of asylum from any grounding in the national interest; the surrender of asylum policy to global agents; the total lack of risk, responsibility, or cost to promoters of liberalized asylum; and the evolution of asylum law – an accelerating process that Congress has ceded to immigration lawyers. The tragic events of September 11 may

[17] "The Suffering Continues." Refugees, Vol. 2, No. 123, 2001.

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have shaken America's famous nonchalance about immigration. There is little evidence, however, that it has yet prompted a serious examination of the forces that propel asylum immigration.

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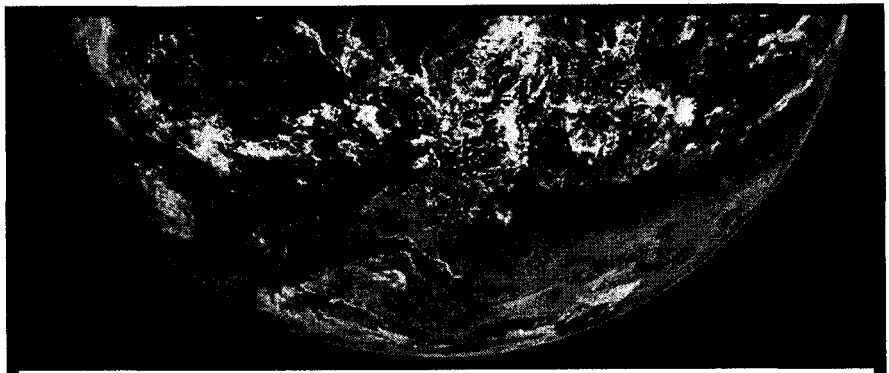

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Classical and Liberal Democracy: Singapore and Jamaica

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Most writers on democracy (particularly, scholars and journalists) have only a liberal conception of democrac , emphasizing elections, multiparty systems, and majority rule. Classical democracy, on the other hand, refers to consensus-building (or statesmanship), which is essential for the development of the institutions required for effective liberal democracy. Political Elasticity (PE) theory is here introduced, enabling us to distinguish liberal and classical democracy and to explain why, while classical democracy is essential for socioeconomic development, liberal democracy may, not only be nonessential, but also counterproductive. A comparison of Singapore and Jamaica is put forward to illustrate this point. In so doing, I will also attempt to show that Lord Acton's assertion, "power corrupts and absolute power corrupts absolutely," is not necessarily true inasmuch as Singapore (with a single-party system) is far less corrupt than Jamaica (with its two-party system). The implications of emphasizing classical, rather than liberal, democracy for improving foreign aid are presented at the conclusion.

Keywords: Jamaica, Singapore, democracy, corruption, economic development, political elasticity theory, foreign aid, debt reduction.

Introduction: Obstacles to Democracy

Americans promoting democracy have encountered some general problems that are well presented in a book by Carothers (1999). First of all, their efforts were often seen as "American interventionism" and "interference from abroad" (p. 62). Second, those in power were willing to pay "deference to the forms of democracy" but not to allow their power to be "seriously threatened" (p. 109). Third, democracy was frequently viewed by, not only Less Developed Country (LDC) leaders, but also those giving foreign aid, as undermining the unity and political power essential for socioeconomic development. Fourth, the funds available for promoting democracy in any particular country were always limited in amount and of uncertain duration. Fifth, the approaches used tended to be technical in nature, lacking in sophistication, misguided (based upon an American model), confusing (placing excessive emphasis

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on quantifiable results), and irrelevant. Sixth, those hired to promote democracy were often inexperienced, ignorant of the local languages and culture, without an adequate understanding of requirements and possibilities, and subject to an inconsistent and/or rigid foreign aid bureaucracy.

These impediments are greatest in an environment in which political power has an "all or nothing" connotation. For example, Kwame Nkrumah led Ghana to independence in 1957 under the slogan: "Seek ye first the political kingdom, and all else will be added unto ye." Consequently, few Ghanaians were initially upset at Nkrumah's politicizing of all the institutions of government and the establishment of an elaborate patronage system, under which there was no room for independent sources of wealth, legal protection, or administrative discretion (LeVine, 1975). Under these circumstances, those advocating democracy (including their extended families, friends, and ethnic groups) were inevitably seen as subversive, disloyal, untrustworthy, or, at least, disrespectful (if not, tainted with neocolonialism). Within such a political environment, two fundamental obstacles to democracy (as it is generally understood) emerge:

(1) The meaninglessness and counterproductive nature of elections. "In some countries," as the saying goes, "elections determine governments; in most, governments determine elections." In countries, where much of the population is illiterate, in remote rural areas, far from communication media, and inexperienced in voting, the mechanics of handling elections can be overwhelming. (For Americans to tell other countries how to conduct elections when they did so badly in their own November, 2000 elections seems rather amusing.)

In countries with strong social divisions, political parties (if allowed) tend to generate violence rather than compromise. It is common for politicians everywhere to arouse racial, ethnic, or religious animosity to generate political support. Countries, such as Yugoslavia, Sri Lanka, and Rwanda (to name just a few) functioned reasonably well under colonial or authoritarian rule before political liberalization tore them apart. In the Islamic world, the struggle for democracy is combined with a struggle for secularism (Khashan 1992, pp. 18-22). Thus, in Algeria, for example, where political parties are dominated by either Islamists or secularists, the country's security forces will probably continue to rule, either directly or indirectly.

Without considerable socioeconomic development, political participation is likely to be manipulated, mobilized, and/or ineffective. The

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government's monopoly of the electronic media, control over major newspapers, ability to buy favorable articles, and willingness to threaten or undermine opposition newspapers or journalists are other reasons for discounting election results. Consequently, "once people have discovered that little has changed, or can be changed, as a result of their votes, why should they be anxious to defend democracy if an ambitious young major decides to bring the edifice down again?"(Pinkney, 1994, p. 159).

(2) The failure to link democracy to development. We remain uncertain that democracy is essential for socioeconomic development. And, until we are, the case for democracy (as generally understood) remains weak. In trying to link democracy to development, we come across two problems: (a) that of priority (Is economic development essential for democracy or vice-versa?) and (b) that of definition (Is liberal democracy the only acceptable form of democracy?).

While there is strong evidence that economic development causes democracy, it does not follow that democracy causes economic development. To suggest otherwise goes against modernization theory which, until recently, had assumed that democratization required prior economic and social development, particularly industrialization. Georg Sorenson (1993, p. 20) asserts that "it is only for the period after World War II that one can talk about extended, stable democratic rule in the industrialized countries of Western Europe and North America.." Yet, it was in the nineteenth century that industrialization took place in European constitutional monarchies despite the fact that their elected parliaments (under highly restricted suffrage in most cases) had very limited control over their governments.

After reviewing 17 studies that generated 20 findings, Adam Przeworski (1992, pp. 52-53) concluded, "we do not know whether democracy promotes economic development, hinders it, or is irrelevant to it." Joan Nelson (1992, p. 14) adds that analysts in the late 1980s "comparing economic performance in many countries found no clear evidence of any link between authoritarian or democratic forms of government and either long-term growth or short-term ability to carry out stabilization measures."

Leftwich (1995, p. 401) points out that development requires "developmental states," which he defines as "states whose politics have concentrated sufficient power, autonomy and capacity at the center to shape, pursue, and encourage the achievement of explicit developmental objectives...." He goes on to note that these developmental states tend to be nondemocratic, combining repression and legitimacy in ways that

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effectively bring public services to an expanding circle of people.

The fact that so few of the more than thirty countries that democratized between 1970 and 1990 have made much economic progress makes us wonder if insisting upon democratization as a "political conditionality" is appropriate (see Brauer 1990). It also raises the question of the usefulness of foreign assistance for this purpose. At both the World Bank and the United States Agency for International Development, staff are concerned about the extent to which political reform efforts may conflict with economic reform efforts. After all, economic reform, including stabilization of the currency, removal of price supports and controls, privatization, cost recovery for public services, and downsizing of the civil service, can be a very painful and unpopular process. To what extent should democratization be sacrificed for economic reform, or vice-versa?

Many experts in the foreign aid field now argue that strong leadership, rather than democracy, is essential for economic development. In regard to Africa, Husain (1994) does not preclude the emergence of a relationship between liberal democracy and strong economic performance, but he does indicate the following problems:

(a) The opposition of the elite to reform. Political leaders, regardless of the origins of their power, must maintain the support of such powerful groups as the military, the civil service, large business owners, trade unions, and journalists. Often these groups are more interested in rent-seeking opportunities than in anything else. The civil service, for example, is likely to oppose the curtailment of its power through privatization, deregulation, elimination of central planning, and reduction in the work force.

(b) The danger of appearing unpopular. The more democratic a government is, the more it is expected to use a participatory and consultative approach. Yet, it is difficult to use such an approach in justifying such requisites for reform as downsizing the civil service, reducing consumer subsidies and scholarships, cost recovery, privatization, and trade liberalization.

While the need for economic reform can be explained to small audiences of educated and well informed groups and individuals, it may not be possible to do so with the urban masses who have previously benefited from public policies and subsidies. The fact that the urban masses are likely to be led by such middle and upper income beneficiaries as university students demanding free education and automobile owners wanting cheap gasoline may

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make even more difficult consensus building for economic reform. It should be remembered in this regard that socialism remains a powerful ideology in Africa and that, among intellectuals, there is a widespread belief that markets hurt the poor and are repressive.

(c) The lack of capacity for reform. Those who pretend to support economic reform may only be interested in a change in government which will bring to them opportunities for self-enrichment. The clientelistic nature of politics, within which leaders view the public administration as their personal property and consider loyalty to be more important than competence, does not change with elections. Likewise, the demand for public sector jobs when there are limited private sector opportunities is far more powerful than the demand for a meritocratic bureaucracy.

Separating Classical from Liberal Democracy

Because of the widespread identification of democracy with elections, the problematic nature of elections in most countries, and the failure of elections to lead to development, we need to take a harder look at the meaning of democracy. In this way, we can possibly help those who find themselves agreeing with the Korean scholar, Sung Moon Pae (1992, p. 81), that studying democracy is like "walking in a jungle with no clear sense of direction:"

You would think by this time that we would be clear about what democracy means. After all, according to Schemeil (2000, p. 105), records having to do with democracy go back to Pharaonic Egypt, a place that we associate with despotism, inherited leadership, slavery, and the harsh conditions essential for the building of the pyramids. Yet, "Egyptians and Mesopotamians were very talkative, free to say whatever they had on their minds (sometimes prompting the leader's anger, to no avail since speakers had legal immunity). They were eager to fight endless judicial or political battles."

While we may doubt the validity of generalizations having to do with democracy in Pharaonic Egypt, a useful distinction can be made between classical democracy and liberal democracy. Classical democracy refers to the Athenian conception of community or polis: continuous discussion in various forums, political education in civic virtue, and recognition of a shared fate (Euben, 1993, p. 479). According to Schemeil (2000, p. 116) the Greeks had an aristocratic version of democracy, emphasizing popular support and participation: "Although this was not government by the people, governing without the people was impossible."

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Most scholars and journalists, on the other hand, recognize only a liberal conception of democracy, sometimes using the famous 1971 book by Robert Dahl on "polyarchy," emphasizing two dimensions: widespread participation and contestation (including competition and conflict). However, both of these dimensions seem to be sources of confusion. With regard to participation, Huntington and Nelson (1976, pp. 7-8) point out that, inasmuch as it is mobilized or manipulated, rather than spontaneous and autonomous, it may neither contribute to nor result from democracy. While contestation is what we might expect in a democracy, it tends to be meaningless or counterproductive without a foundation of statesmanship, much like an Olympics without the necessary conditions for sporting events and rules for participating, competing, and officiating. If nothing else, the American presidential elections of November, 2000, have shown us the importance of judicial decisions in determining the outcome. Consequently, it became a matter for lawyers, not generals.

Yet, the classical world avoided elections, preferring short-term assignments and selection by lots. This leads to the question of how essential are competitive elections to meaningful democracy? The answer should not be taken for granted. Most of us who have taught for many years are uncomfortable when the chairmanship of our department is the product of partisan politics. We much prefer a rotational system among those who are respected and interested. What we are really concerned about is having our needs and problems dealt with fairly and carefully. This, for us, is democracy, even if it doesn't appear so to an outsider. Of course, we want the right to turn to a more confrontational approach when serious disagreements and divisions emerge.

A Theoretical Analysis

The usefulness of distinguishing classical from liberal democracy requires a theoretical analysis, as well as empirical evidence. Consequently, I have developed Political Elasticity (PE) theory to explain the relationship of democracy to development (see Werlin, 1998). It includes the following propositions:

(l.) The more governments or those in authority can integrate and alternate soft forms of political power (linking incentives to persuasion) with hard forms of power (including disincentives and coercion), the more effective they will be.

(2.) As leaders integrate and alternate soft and hard forms of power,

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their political power takes on "rubber band" and "balloon" characteristics, allowing them (a) to decentralize or delegate power in various ways without losing control and (b) to expand their influence, reliably and predictably affecting the behavior of wider circles of citizens, participants, and subordinates.

(3.) Political elasticity depends partly on the selection of appropriate political hardware (including "objective" forms of organization, regulation, procedure, and technology) but mostly

on political software (which has to do with the "subjective" quality of relationships between leaders and followers).

(4.) Political software can be made more effective in the commonsensical ways suggested by the steps associated with good governance: establishing acceptable goals, hiring qualified personnel, encouraging training, delegating responsibility, stimulating motivation and competition, paying attention to morale, expanding two-way flows of communication, promoting legitimacy, maintaining supervision, cultivating contractors, protecting independent spheres of authority, and developing conflict-resolution procedures. Inasmuch as any of these steps (with appropriate variations) are neglected or mismanaged, all reform efforts in both micro- and macro-administration are going to be difficult, if not impossible.

(5.) The enhancement of political software requires a balancing of two meanings of political power found in Sheldon Wolin's 1960 book, Politics and Vision: the struggle for competitive advantage and the struggle for consensus. These two meanings of politics (i.e., partisanship and statesmanship) can be considered as subdivisions (primary and secondary politics) of my previously mentioned overarching definition of politics (which is also derived from Wolin's 1960 book): the relationship of leadership to followership for the purpose of governance. Out of this relationship comes the possibility of reconciling partisanship and statesmanship (or, what might be also called, primary and secondary politics).

PE theory enables us to make a distinction between primary and secondary democracy (or liberal and classical democracy), using Wolin's two sides of politics: partisanship and statesmanship. Whereas primary (i.e., liberal) democracy has to do with elections, multi-party systems, and majority rule (i.e., when there is a meaningful struggle for competitive advantage), secondary (i.e., classical) democracy refers to the consensus-building essential for successfully managing this competition. Three conclusions follow from this distinction: (1) in many LDCs, it is

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better to promote classical democracy than liberal democracy because, without it, elections are likely to be meaningless or counterproductive; (2) without classical democracy, political inelasticity inevitably characterizes the relationship between leaders and followers; and (3) requests for economic assistance should be tied to a willingness to implement classical democracy.

What makes classical democracy essential for economic development is that it is also necessary for a high quality of political software. Liberal democracy, on the other hand, can be quite counterproductive unless it is balanced by classical democracy. This point calls into question Lord Acton's famous assertion, "Power tends to corrupt and absolute power corrupts absolutely" (see Caiden 2001, p. 16). In other words, using Wolin's two sides of politics noted earlier, partisanship and statesmanship, we can also make a distinction between primary and secondary corruption. Under primary corruption, manifestations of greed (associated with corruption) are somewhat controlled by the political system; under secondary corruption, there is no such control. Primary corruption would be similar to a normal basketball game, in which competent referees call the fouls; secondary corruption would be a basketball game, in which the referees were corrupt, so that fouling became so prevalent as to be almost meaningless. The following comparison of Singapore and Jamaica is intended to illustrate the three conclusions that have been presented:

Singapore and Jamaica

A social scientist looking at these two island states in the early 1960s (each with a population then of about 1.6 million and a GDP per capita of $400), when independence from Great Britain was looming, might have predicted a much brighter future for Jamaica, despite problems stemming from colonial rule, racial tension, and the dangers of hurricanes and earthquakes (Norris, 1962; Lee Kwan Yew, 2000). In 1960 Jamaica was the world's primary source of bauxite and alumina. Its Industrial Development Corporation was responsible for 30 factories and over 300 manufactured items. While its agricultural exports consisted largely of such plantation products as sugar, bananas, citrus fruits, and coconuts, it was promoting various exotic fruits and spices, suitable for smallholder production. The country's beauty gave it tremendous potential as a tourist center, particularly after the Cuban revolution. Jamaica's potential for export-led growth was enhanced by its geographical proximity to North America and its English-speaking

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workforce. At the same time, Singapore had no natural resources and was suffering from severe racial, religious, and political turmoil, intensified by its traumatic 1965 separation from Malaysia. Potentially, it was unlikely to become more than "a somnolent swampy fishing village"(Neher, 1999, p. 39).

The situation now obviously is very different, indicated by the great disparity in per capita income: Singapore, nearly $30,000 (with a 6.5 percent annual growth): Jamaica, less than $2,500 (with negative growth for most of the last 25 years). What Singapore's government has managed to eliminate persistent poverty, unemployment, and crime, Jamaica's government has been unable to break the linkage between high teenage pregnancy rates (40 percent), female-headed households (40 percent), school drop-out and failure rates (one-third of those from poor households), poverty (one-third of the population), and extremely high rates of ordinary and violent crime (Human and Social Development Group, 1997). Whereas Singapore has been able to undertake some of the world's best programs in public housing, public transportation, urban planning, public health, and public education, Jamaica's efforts have largely failed. Between 1965 and 1995, the World Bank lent Jamaica $1.3 billion for 62 projects, of which 52 were evaluated as unsuccessful in regard to outcome, sustainability, and institutional improvement (Caribbean Country Management Unit, 2000, p. 19).

Classical Democracy in Singapore

Singapore has been described as a "sub-fascist state," in which the "vulnerability" of the island republic is used as a pretext "to crack down on democratic critics" (Haas, 1990, p. 39). Despite periodic elections, the government has used a one-party system to suppress dissent, detain without trial, intimidate newspapers and radical trade unions, and enact anti-democratic laws and administrative regulations While the regime does employ overt repression, it prefers to use "the bankrupting libel suit" as a tool to discourage political dissent (Crane, 1995, A. 24; also see Beng-Huat, 1994, pp. 655-657.)

Lee Kwan Yew, Singapore's prime minister from 1959 until his 1990 resignation, has always been ambivalent about democracy. Whereas in a 1992 speech in the Philippines , he proclaimed that "what a country needs to develop is discipline more than democracy," he explained to a Chinese delegation to Singapore that year "that social control could not depend on discipline alone," adding: People had to have a decent life with reasonable housing and social amenities if they were to lead moral

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and upright lives. "They had to accept the basic principles of our system of government..." (Lee Kwan Yew, 2000, pp. 304, 646).

At the beginning of 1997, the ruling People's Action Party (PAP) increased its seats (leaving only two in opposition) in Parliament and its share of the vote (reaching 65 percent) over 1991. It did so, however, by threatening to delay the upgrading of public housing estates and planned infrastructure projects in opposition-supporting constituencies. These tactics, together with those used to discourage opposition candidates in the November 3, 2001 elections, are seen as essential to prevent "rampant individualism," social instability, and decadence." (Neher, 1999, pp. 48-49). Yet, they were a crude manifestation of "hard politics": "what you get depends upon how you vote!" As explained by Mutalib (2000, p. 317), "an illiberal, (soft) authoritarian form of governance is certainly preferable to liberal democracy" because "economic growth demands much sacrifice from the people" which they might not be willing to support if given a choice.

While liberal democracy is clearly undermined in Singapore, classical democracy is evident in various ways. Survey data indicate a high degree of public respect for the government in regard to property rights, the legal system, honesty, reliability, business environment, and lack of corruption (Huff, 1999, pp. 214-242). The Lee Kuan Yew government transformed its bureaucracy over a 25-year period from one that was somewhat inefficient and corrupt into probably the most respected in Asia, including personnel who are carefully selected, highly paid and trained, with excellent equipment and working conditions, and properly motivated and controlled. Although the jury system has been eliminated, both the Swiss-based Institute for Management Development and the Hong-Kong-based Political and Economic Risk Consultancy ranked Singapore's judicial system as the best in Asia during the 1990s (Lee Kwan Yew 2000, pp. 219-220). The 2001 Transparency International Web site lists Singapore as among the world's least corrupt countries. In a book that is quite critical of authoritarian rule in Singapore, one of the authors points out that "Singapore does enjoy substantive democracy," including due process of law, equality of opportunity, and "a modicum of civil liberties" (Neher, 1999, p. 51).

Lee Kwan Yew, in his recent (2000) autobiography, is proud of the cultural engineering that occurred under his rule from 1959 to 1990, transforming a population that was largely uneducated, illiterate in English, impoverished, and without professional or technical skills into one comparable to what exists in the most advanced countries. By the

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end of the 1990s, 40 percent of eligible youth (as against 5 percent in 1970s) were enrolled in higher education, facilitating the annual export of $60 billion worth of high-tech products, which was about one-third more than exported by China (The Economist, November 10, 2001, p. 11). In the process, two disadvantaged sections of the population (women and Malays) have especially benefited. Between 1970 and 1990, the percentage of women aged 25 to 29 with a secondary of college education doubled, those in wage-earning employed increased by 20 percent, and the fertility rate was reduced by 70 percent (see Werlin, 1998, pp. 231-234). With the financial support and encouragement of the government, the independent Association of Muslim Professionals became very successful during the 1990s in quadrupling the percentage (from 7 to 28 percent) of Malay students undertaking higher education, so that a higher percentage of Malays in Singapore hold administrative or professional positions than in Malaysia, thereby also reducing their hostility toward the Chinese majority (Lee Kwan Yew, 2000, p. 209). Yet, animosity remains insofar as the government has not found a way to completely integrate the various racial and religious communities and, at the same time, respect their differences. Allowing veiled schoolgirls seems to be the most vexing problem, made more difficult by "Singapore's knee-jerk rejection of all but the mildest dissent" (The Economist, February 9, 2002, p. 37).

Lee Kwan Yew's cultural engineering would not have been successful without a high quality of political software. In my case study of Singapore's successful public housing program (Werlin, 1998, pp. 231-234), I found government officials remarkably responsive to changing needs and demands. University planning professors, in 1990 interviews that I had with them, were impressed, not only by the willingness of officials to listen to their criticisms and suggestions, but also by their willingness to fund research on existing and emerging problems.

The successful development of Singapore's electronics engineering could not have been possible without classical democracy, particularly the two-way flows of communication and consensus-building necessary to link improved training, infrastructure, finance, research, labor relations, and marketing arrangements to the needs of a complex and constantly changing industry (see Hobday, 1994, pp. 831-858). In this regard, Mutalib (2000, p. 337) reports on the willingness of the government in 1998 to revise its economic policies (including cost-cutting measures, lowering of fees and taxes, and a reduction in employers' social security contributions), taking unusual steps to swing

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public opinion in favor of radical reform. During a recession in the mid-1980s, employees even of profitable firms agreed to a significant reduction in salaries as a result of a "tripartite" advisory council composed on government, employees, and labor. This was facilitated by "vocal and frank comment on all public policies" carried out in the press, parliament, public forums, and grass roots institutions" (see Chee, 1986, p. 16; Campos and Root, 1996, p. 81). Likewise, in response to the 1998 Asian financial crisis, the parliamentary designated Committee on Singapore's Competitiveness made a number of painful recommendations, including reducing total wage costs by up to 20 percent, which were acceptable only because of the existing high quality of political software (Leong, 2000, pp. 436-455).

Since 1990, under Prime Minister Goh Chok Tong, there have been more experiments to expand two-way flows of communication: Community Development Councils, a Speakers' Corner, an award for the best public suggestions for improving the functioning of the courts, and a liberalization of registration requirements for groups or societies. Ho Khai Leong (2000, pp. 436-455), a political science lecturer at the National University of Singapore, has summarized what the current situation is, indicating that constructive criticism is to be encouraged, but not counterproductive statements or activities, particularly having to do with racial, ethnic, and religious differences. The permission granted to political satires is an indication of the recent flexibility and tolerance existing in Singapore. However, what Leong (2000, p. 442) refers to as, "this love-hate attitude among policy makers for citizen input" seems to be reflected in a remark of Prime Minister Goh that while those "who put forth their views in very well-meaning ways will receive a very gentle and very well-meaning reply," those who try to undermine the authority of the government through snide remarks and mockery "must expect a very, very hard blow from the government in return."

Liberal Democracy in Jamaica

Jamaica, in contrast to Singapore, has maintained a vigorous two-party system since its independence in 1963 (three years earlier than Singapore and without comparable communal and political strife). One might expect Jamaica, with about the same population size (3 million) and colonial experience, to be more politically elastic than Singapore inasmuch as it is less autocratic. If, as some believe (in accord with Lord Acton's assertion noted earlier), there is a strong relationship between political corruption and monopoly of power, one might also anticipate

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greater corruption in Singapore than in Jamaica. Why then, in reality, is the opposite true?

The answer, as I see it, has to do with the fact that primary or liberal democracy has taken a dysfunctional form in Jamaica. Both political parties regularly employ criminal gangs (occasionally supported by police or civil servants) to mobilize political support, distribute favors, and intimidate opponents. The civil service, the judicial system, and the police have lost citizens' respect as their effectiveness has been undermined by inadequate pay, training, and expertise, and even drug money (see Payne, 1993, pp. 28-51; Hudson and Seyers, 1989).

The consequences of a democratic political system, in which partisanship is more apparent than statesmanship, were once again revealed in July, 2001, when riots broke out in the Tivoli Gardens neighborhood of West Kingston, causing much destruction, personal injury, and the loss of more than 25 lives (see Gonzalez, 2001, p.A3; The Economist, July 14, 2001, p. 34). The violence came about when the police went into this community, which supported Edward Seaga, the former prime minister and leader of the opposition Jamaica Labor Party, looking for illegal weapons. However, the origins of the violence goes back to the 1970s, when community leaders (knows as "dons") were armed by the parties, given control of patronage, and used as enforcers in the turf wars that divided the country. In the case of Jamaica, political disorder clearly results from bad governance, rather than from such common causes of political instability as racial, religious, or ethnic differences. Indeed, the political parties here are not even divided along class lines, as many are in Europe.

Both political parties have used public sector employment, not for purposes of growth-enhancement, but, rather, to reward loyal voters. This has meant, not only excessive public employment, but also "proliferation of agencies, inefficient business practices, and a lack of focus on results and accountability" (Caribbean Country Management Unit 2000, p. 16). Unmonitored public enterprises (of which about 150 remain) are increasingly used to pay for the existing political machines. Public expenditure is hidden, first of all, from the IMF, and secondly, from the legislature and the public, indicating that these methods "are linked to the workings of clientelist politics" (Harrigan 1998, p. 17). Moreover, banks, credit unions, and insurance companies continue to be under-capitalized, under-supervised, and under-regulated, with the public usually kept in the dark about this mismanagement (see Dean 1999, pp. 7-33). This indicates (supporting the point made earlier) that

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Jamaican corruption is not simply primary corruption (manifesting itself in excessive greed – the sort sometimes found in Singapore) but, rather, secondary corruption (where leadership is unable or unwilling to control manifestations of greed).

The Importance of Combining Liberal and Classical Democracy

I believe that Singapore is ready for more liberal democracy because, as explained by Mutalib (2000, p. 118): "if Singaporeans cannot resort to opposition parties as vehicles of legitimate dissent and disagreement, the chances are they will be diverted to other channels of articulating their views." Moreover, legitimate decision-making, having to do with "the ills of mass society," may be too difficult for a paternalistic government (steeped in classical democracy) to provide (see Haas, 1999, p. 183).

Meanwhile, Jamaica needs more classical democracy because it remains a much more troubled country than Singapore. Talented and entrepreneurial Jamaicans, particularly those most essential for economic expansion, have far less incentive than Singaporeans to serve their state. While trade barriers are often presented as undermining Jamaica's economy, the truth is that Jamaica's European Union import quotas for bananas and sugar have not been met. The high levels of ordinary and violent crime are alone very discouraging for economic growth, particularly tourism. Whereas there are very few murders in Singapore, the number of murders in Jamaica has reached about 300/million, of which less than half (49%) are cleared up (The Economist, January 12, 2002, p. 36). Until there is more classical democracy here, there will continue to be a connection between, on the one hand, the "factionalized civil society" and the "parallel system of government in inner cities" and, on the other hand, the "low respect for law and order" and "low national pride" (Caribbean Country Management Unit, 2000, Section E).

Conclusion: Implications for Foreign Aid

Wolfensohn, in his role as World Bank president, acknowledges that foreign aid has failed to reduce poverty in much of the world, with almost one-third of the world's population living on less than $2 a day and one-fifth on less than $1 a day (World Bank, 2001, p. vi). According to a recent World Bank Development Report, the "average income in the richest 20 countries is 37 times the average in the poorest 20 – a gap that has doubled in the past 40 years" (World Bank, 2001, p. 3).

My own thinking on the relationship between secondary democracy

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and institutional reform came about from a 1994 study that I did for the World Bank on reducing corruption in borrowing countries (summarized in Werlin, 1998, chs. 6 and 10). This study was partly a response to President Wolfensohn's courageous recognition of the fact that corruption was undermining many of the Bank's projects. However, I came to the conclusion that some of the Bank's anti-corruption efforts were simplistic. It is not enough to attack bribery, graft, embezzlement, and other manifestations of greed. It is, instead, necessary to deal with the excessive weakness of governance. Therefore, anything which undermines governance must be a cause of concern, including: attacks on a free press, the weakening of the judiciary and the bureaucracy, the prevention of two-way flows of communications by intimidating non-governmental organizations, and the neglect of monitoring and evaluation.

Yet, staff members continue to be admonished "not to interfere in a country's internal affairs." Since I felt it was essential to deal with the underlying causes of corruption, my report was paid for but never published. While the World Bank has supposedly intensified its efforts to reduce corruption, staff remain under great pressure to get loans out and projects going, regardless of their merit. Strings are certainly attached (particularly for structural adjustment lending), but they are usually ineffective. The deleterious consequences of failing to require Jamaica to improve political software seems to me clear from an analysis of its experience, as here presented:

Jamaica: Playing the "Blame Game."

In 2001, an interesting documentary film, "Life and Debt," dealing with Jamaica appeared. This film reiterates many of the criticisms of globalization and the international financial agencies, particularly the IMF, found in literature skeptical about the concept of structural adjustment (see de Rivero, 2001). John Rapley (a lecturer in government at the University of the West Indies, Mona), in his review of this film (2001), notes that, while this film makes a number of valid points, it relies heavily upon remarks made by Michael Manley who, as prime minister during the 1970s, was primarily responsible for getting Jamaica into the financial trouble which required the IMF's initial intervention. Indeed, until Manley came into power in 1972 as head of the People's National Party (PNP), there had been an average rate of growth of almost five percent per annum, despite high tariffs and unemployment affecting nearly one-fourth of the population (Danielson 1996, pp. 99-

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100). Under Manley's somewhat socialist and populist policies, the economy became deeply trouble with mounting unemployment, inflation, public sector mismanagement, budget deficits, and external debt.

However, it was really the Edward Seaga administration (together with international donors) during the 1980s that caused Jamaica's total debt (internal plus external, in relation to GDP) to be among the highest in the world (Caribbean Country Development Unit, 2000, 28; Payne, 1993, pp. 28-51). Seaga successfully presented himself to the Reagan administration as a respectable, pragmatic, and business-friendly alternative to his predecessor and to communist threats stemming from Cuba and Grenada. Consequently, loans flowed so extensively from 1981 to 1983, particularly from the IMF and the World Bank, that, by the end of 1983, foreign debt rose from US$1.2 billion to US$3.1 billion, thereby undermining the Jamaican dollar and discouraging exports. At the same time, none of the reforms that were necessary (drastically cutting wasteful public expenditure while improving public administration, police, and infrastructure) were effectively carried out.

While the United States Agency for International Development, the IMF, and the World Bank (as evident in the recommendations of a 1986 visiting Tripartite Mission) were fully aware of what was going on, they did not really insist upon classical democracy, particularly, frank open discussions of problems: crime, corruption, economic misery, and discouragement of progress. Instead, Seaga, who had become quite dictatorial after a flawed 1983 election, was able to suppress the report of the Tripartite Commission and to blame the international financial institutions for "the huge toll in human suffering" resulting from structural adjustment requirements. Thus, an alternative vision of what was possible – a center for research and development of aluminum, tropical fruits and vegetables, eco-tourism, and appropriate manufacturing – never replaced what actually existed. Indeed, Singapore could have been used as a model for possibilities, while acknowledging its limitations.

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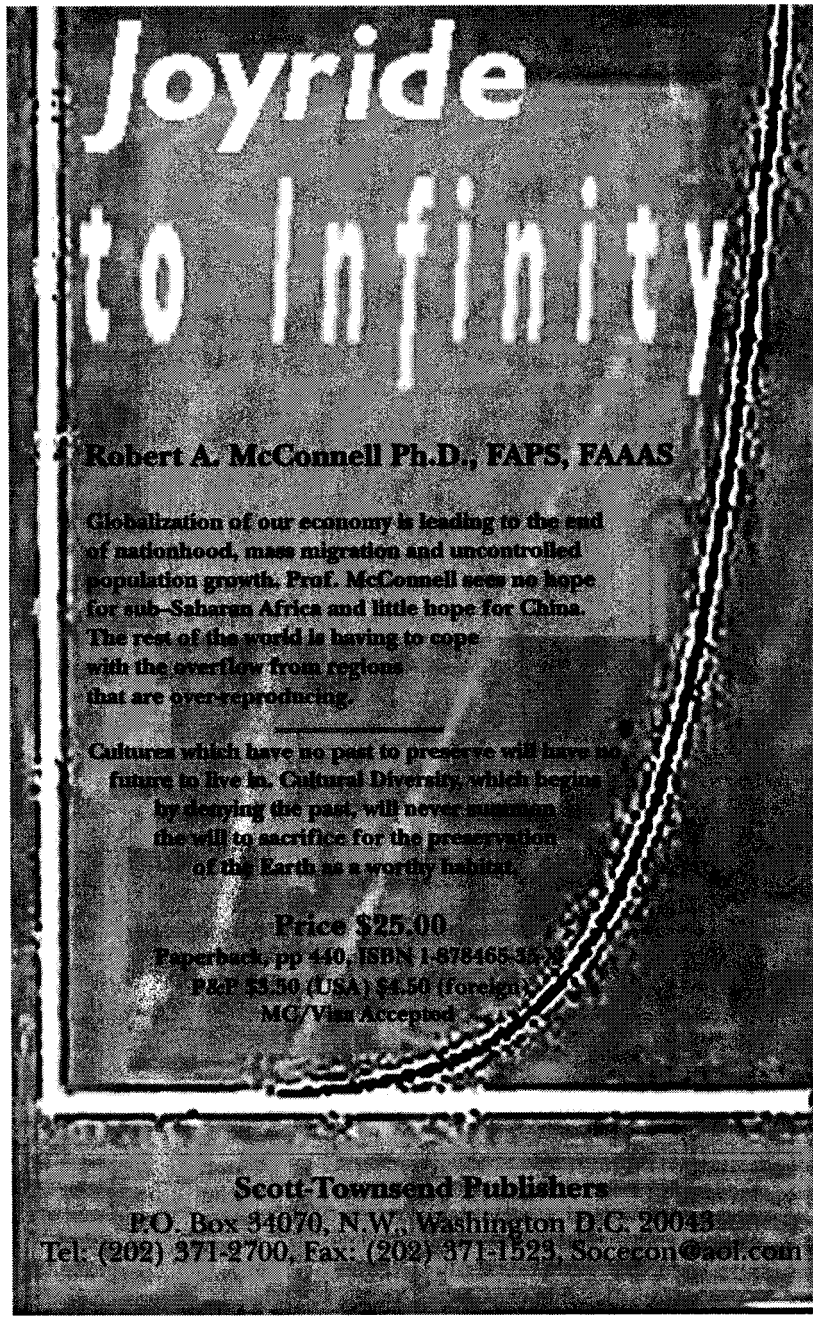

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International Norms, Trade, and Human Rights: A Perspective on Norm Conformity

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Informed by a constructivist perspective, this study illuminates the significance of and compliance with norms in international relations. The role and importance of norms in international relations is highlighted through presentation of three interpretive examples: glasnost and human rights in the former Soviet Union, norms governing development and the post-World War II trading system.

Key Words: International Norms, International Law and Morality, International Trade, Ethics, International Regimes

I. Introduction

The significance of the role played by norms and principles of conduct, especially moral norms, governing most interactions in international relations is understood through examining behavioral influences rooted in a centuries-long philosophical tradition. Kant, for example, held the view that cooperation amongst autonomous individuals and states for mutual benefit is natural, especially in circumstances when the too narrow pursuit of individual interests could damage the interests of all. Similarly, in the Grotian tradition, norms shape international interaction because norms represent expectations held by national leaders about proper behavior of states in international relations. Over the course of two centuries, agreed norms of behavior that have been institutionalized through international organizations become habitual over time. These enduring norms gain legitimacy and establish permissible limits of normal behavior or codes of conduct.

This study starts from the premise that the rise and sustenance of international regimes, norms, international rules and principles of conduct relate to the national interests and national security of states, and the desire of self-interested utility which maximizes a state's achievement of an optimal outcome in international affairs. However, states' interests and states preferences do not take shape in a vacuum, rather these are shaped by institutionalized practices, roles and international identities of national actors. For example, it is often

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argued that in anarchic international environment composed of states with competing national interests, states seek power, security, and wealth. But Finnemore has correctly pointed out, what kind of power? Power for what ends? What kind of security? What does security mean? How does a state obtains it or insures it? What kind of wealth, and wealth for whom and to what ends?[2] The organization and social mileau of national foreign policy makers imbue them with a set of values and norms that define identities, interests and socialize them to accept new political goal and values with lasting impact on their perception and interpretation of the national interests. From this vintage point norms help shape both the national interests and expectations of appropriate international conduct shared by the international community.

The above general proposition is informed by a 'constructivist perspective'. According to this approach, national decision makers pursue interests, process information, and make decisions in the context of the social, cultural and organizational milieu to which they belong and which help shape their sense of identification with some proper code of conduct. To illustrate consider, the case of whether Europe can lapse back to the traditional balance of power rivalry that characterized pre-1939 European state system. According to the traditional realist perspective, in the absence of the collective security system embedded in NATO and strong American military presence in Europe, European states will revert back to the old behavior pattern of balance of power politics. In contrast, a constructivist perspective will hold that such a pattern need not return because the European states of the twenty first century are not the European states of the 1949 when NATO was founded in order to balance the Soviet Union. There has been a profound change in the identity of European states as member of a "pluralist security community". Decades of cooperation has socialized Germany, France and other states in Europe into new set of roles, reinforced by membership in the European Union. As such, it is unlikely that the future for Europe will look very much like the classical balance of power of the pre-1939 era.

In order to shed light on the role of norms in international interac-

[2] Martha Finnemore, *National Interests in International Society* (Ithaca: Cornell University Press, 1996), pp. 1-2. It is not our objective in this essay to highlight competing Neorealist and Neoliberal schools of thought and the related offshoots such as the hegemonic stability theory and institutionalism. For a concise profile of these competing explanations see, Joseph Nye, "Neorealism and Neoliberalism" *World Politics*, 15:2, January, 1988, p. 247. See also Andreas Hasenclever, Peter Mayer and Volker Rittberger, *Theories of International Regimes* (England, Cambridge: Cambridge University Press, 1997).

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tions and governance, this article will examine the following: (1) A brief theoretical expose of the rise of norms and why states comply with international norms will be presented. In this regard, the meaning of norms and various factors for compliance, including the role of a state's identity, will be highlighted; (2) We will present three interpretive examples to illustrate the role of norms in shaping states' behavior: glasnost and human rights in the former Soviet Union , the post-World War II international trading system and development.

II. Norms, Identity and International Interaction

The major assumption underlying the significance of norms is that the international behavior of governments in pursuit of national interests is conditioned by the social environment which provide them with appropriate cues on how to behave. There is nothing immutable about national interests. States as national actors take on new tasks, create new bureaucracies, acquire new or different identities. In this sense states and their interests can not be considered as a given. Rather, states can change in terms of the acceptance of new norms, values, and perceptions of their own interests. In short, rather than taking the interests of states as the starting point, the antecedent to national interests is the social and organizational mileu which socialize states leaders and shape and create interests and values for national decision makers. Commenting on the importance of norms and values, Finnemore captures the significance of norms, " material facts acquire meaning only through human cognition and social interaction. My defensive measure is your security threat; my assault on free trade is your attempt to protect jobs at home."[3]

As such, there exists a 'logic of appropriateness' representing an ontology which relates the emergence and maintenance of particular norms to a set of pre-established state identities and cognitions, in turn dependent on international institutions.[4] As Alexander Wendt and others have observed, the social environment in effect socializes states on the content of the interests and defines which interests and identities

[3] Ibid. p. 6.

[4] In a thoughtful study on various approaches to international regimes, Hasenclever has noted that rationalists approaches, both Realist and Neoliberal interpretations, give actors priority over rules, and are therefore unable to grasp essential features of rule-governed cooperation under anarchy. See Andreas Hasenclever, Peter Mayer and Volker Rittberger, *Theories of International Regimes* (England, Cambridge: Cambridge University Press, 1997), p. 157.

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to claim.[5] Permissible behavior into which states are socialized help states define national interests on the basis of a set of acceptable and legitimate policy options, limiting some means for pursuing national goals and promoting other goals and ends. Later we will present three cases – human rights, trade, and devilment – to illuminate the aforementioned theoretical expose. The central tenet posed here is that states become socialized into or adopt identities conducive to appropriate code of international conduct. Socialization might be due to a large scale or macro change in the identity of a state. For example, Gorbachev's policy of glasnost and later the demise of the Soviet Union led to a major shift in national identify. Consequently, not only Russia embraced its human rights obligations as codified in the Helsinki Final Act, it cooperated with the West and non-governmental organizations to implement human rights provisions. Another venue through which a state might become socialized and adopt norms in congruence with appropriate code of international conduct is via membership in international organization. Indeed, we will argue that the acceptance of the norm of development was in part a consequence of the activities of and membership in international organizations that address Third World development, namely the World Bank.

Consistent with the aforementioned analysis, norms are standards of behavior defined in terms of rights and obligations. To illustrate, consider the nuclear proliferation regimes. There are several norms embedded in the this regime enabling the regime governing the prevention of nuclear proliferation to operate. Among these norms are "...the obligation of non-nuclear weapon states to refrain from producing or acquiring nuclear weapons, the obligation of all members not to assist non-nuclear weapon states in the production or acquisition of nuclear weapon, and the obligation of nuclear weapon states to enter into serious negotiations with purpose of concluding nuclear disarmament treaties."[6] As such norms are in effect s standards of behavior understood in terms of the expectations of the international community or collective expectations regarding appropriate behavior for actors within a given identity. Accordingly, norms can regulate behavior,

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[5] Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999).

[6] Andreas Hasenclever, et. al., *Theories of International Regimes*, p. 9. See also Martha Finnemor and Kathryn Sikkink, 'International Norm Dynamics and Political Change," *International Organization*, Vol. 52, no. 4 (Autumn, 1998); P. J. Katzenstein, *The Culture of National Security* (New York: Columbia University Press, 1996).

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shape states' conception of their interests and serve as constitutive factor in forming identity. This conception appears to be best suitable for capturing not only a variety of norms at different levels of social interaction, ranging from domestic to international norms, but also embodies the prescriptive nature of norms that dictates to national actors with a given identity what to do or what not to do. This conception is consistent with the Grotian tradition that conceives of norms as a pervasive facet of social interaction. Accordingly, norms result from the interaction among states, with social groups formed intent on conformity to agreed behavior or social practice.

The question remains, why do states comply with norms? The traditional 'Realist' interpretation simply asserts a rationalist view according to which states will comply with international norms when it serves their national interests, and conversely states are likely to violate norms when compliance runs counter to the interests of the states. A key shortcoming of this view is it does not explain why states are willing to incur costs upon themselves in order to comply with norms when their material interests are not at stake, as for instance intervention in political and military actions in far away places. In contrast, we have adopted the view that states learn about convergent expectations of what constitute appropriate behavior. As states internalize behavior, or become socialized into proper principles of conduct, conformity becomes a matter of playing by the 'rules of the game.' This learning process occurs in several ways: (1) modeling after other successful states; (2) rewarding conforming behavior through the recognition and praise conferred on states that comply with norms by other members of the international community, forming psychological benefits of national esteem as the state in question is recognized as abiding by the norms of 'civilized community of states'; (3) ridiculing states for noncompliance; and (4) applying diplomatic and economic pressure to states that break norms.[7] In short as norms become internalized, compliance with norms becomes a matter of perceived national interests.

In this regard, norm entrepreneurs play a major role in the rise and strength of norms. Finnemore and Sikkink have identified the key role of individuals or organizations serving in the domestic setting as norm entrepreneurs who set out to change the behavior of others. These entrepreneurs seek to persuade norm leaders or key states to embrace

[7] Vaughn A. Shannon, " Norms Are What States Make of Them: The Political Psychology of Norm Violation", *International Studies Quarterly*, Vol. 44, N0. 2 (June 2000), p. 297.

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new norms. Once a critical mass of actors adopts the norm, the socialization process of a larger number of actors in the international society in effect triggers a norm cascading effect. To illustrate the vital role of norm entrepreneurs, consider the role of three American presidents, Woodrow Wilson, Franklin Roosevelt, and Harry Truman, regarding the norm governing territorial sovereignty. Each of these American presidents acted as a norm entrepreneur as each sought to establish and promote the salience of this norm at the level of the international society. Each played a specific and key role in the emergence and strengthening of the norm protecting territorial sovereignty of states.

President Wilson supported people's right to self-determination, he also imposed limits on this right by making the territorial integrity of states inviolate. The policy or national goal that undergird President Wilson's view was to use these ideas as a mean to help reduce the incidence of war in interstate relations. Similarly, Franklin Roosevelt supported the sanctity of territorial sovereignty while adhering to the right to self-determination, in part in deference to American public opinion. President Truman reaffirmed and continued support for the principle of the inviolability of state sovereignty. To be sure, it was in America's interests to support the principle of territorial integrity of states which was being challenged by the Soviet Union. However, the collective efforts of these three American presidents created the conditions for enshrining this norm by the international community in article 2.4 of the United Nations Charter. Once this occurred, this particular norm acquired the imprimatur of international law.[8]

Another illustrative example relates to Japan's compliance with GATT According to one study, the neomercantilist policy culture and protectionist ethos of Japan were incongruent with both GATT and WTO. However, a gradual shift in domestic norms occurred favoring compliance with international norms of free trade embedded in GATT.

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[8] The section on the role of the three American presidents in strengthening the norm of sovereignty relies heavily on Tanisha M. Fazal, 'The Territorial Sovereignty Norm: Origins, Adherence, and Prospects', paper presented at the 2001 Annual Convention of the International Studies Association, Chicago, IL, February, 2001, pp.1 – 15. Other notable works regarding the role of norm entrepreneurs, the issue of how norms emerge and develop and the ways in which certain practices gain social recognition are: Finnemore and Sikkink' 'International Norm Dynamics and Political Change', op. cit.; Finnemore, Martha, *National Interests in International Society*; op. cit.; Fredrick Kratochwil, *Rules, Norms, and Decisions*; Oran Young, *International Governance: Protecting Environment in a Stateless Society* (Ithica: Cornell University Press, 1984).

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Consequently, Japan was prompted toward voluntary compliance with norm-induced appropriate international standard of behavior in international trade. This dramatic change in Japan's international economic conduct occurred as a result of the efforts of domestic economic policy entrepreneurs. A group of highly influential domestic national political and economic figures helped bring about a change in domestic norms that favored compliance with international norms. Once the change in the domestic setting occurred, gradually Japan's foreign economic policy changed in favor of compliance with rules of free trade embedded in GATT and WTO was facilitated.[9]

Finally, yet another vital factor for compliance is the degree of a state's identification with normative principles and expectations of the international society. States are more likely to comply with those normative expectations that best fit a state's identity. Thus congruent identity prompts compliance with an international norms which, in turn, influence the foreign conduct of the national governments. Identity is defined as the ways in which the elite or policy makers define the national interest of a state and the ways in which these national interests or policy preferences connect or separate the state from other states. As Alexander Wendt demonstrated in his seminal work, state identity shapes leaders' and bureaucracies definitions of state interest on a variety of domestic and international issues and norms.[10] As we shall see, the case of the former Soviet Union's compliance with human rights best illustrate this general line of reasoning.

In broad terms we may identify two broad categories of identities: 'norm-supportive' and 'nonconforming' identity. Regarding states with 'norm-supportive' identities, satisfying the normative expectations of other states in the international society with which the state in question identifies or 'doing the right thing" reaffirms one's own sense of purpose. Consequently, such states respond positively to the normative expectations of compliance with international norms by the international society in a non-calculating manner. In contrast, states with 'nonconforming' identity emphasize their unique or distinctive attributes from the international society. The predisposition of these

[9] Andrew Cortell and James W. Davis, Jr., "How Do International Institutions Matter? The Domestic Impact of International Rules and Norms", *International Studies Quarterly*, Vo. 40, No. 4 (December, 1996), p. 454-457; Andrew P; Cortell and James W. Davis, "When International and Domestic Norms Collide: Japan and the GAAT/WTO", paper presented at the annual meeting of the Intentional Studies Association, February 2001, Chicago, IL. See also Finnemore and Sikkink, "Norms and International Relations Theory".

[10] Alexander Wendt, *Social Theory of International Politics*.

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states is such that they tend to respond negatively to international expectations of compliance with international norms, and less likely to cooperate with other members of international society.[11] For example, Iran under Khomenie's leadership, the former Soviet Union, Communist China, North Korea, and Saddam Hussein's Iraq have regarded international demands for compliance with human rights as interference in the internal affairs of states. Each one of these states has questioned, on various occasions, the universal validity of the Western conception of human rights.

As Thomas has pointed out, states with 'nonconforming" identity tend to be resistant to change, partly because identity of a state is embedded in state's ideology, collective beliefs, and those values prevailing in the state's bureaucratic apparatus. However, change is possible. Specifically, a variety of factors such as changes in political leadership, regime change, changes in ideology due to domestic systemic changes or simply circumstances in which exiting leaders can no longer reconcile with the existing understanding of state purposes can bring a shift in identity, and thereby a change for the better regarding compliance with international norms. In order to amplify these issues, below I present an interpretive example regarding human rights in the former Soviet Union.

III. Identity Makes a Difference: Glasnost and Human Rights

The case of the former Soviet Union's compliance with human rights illuminates two interrelated key issues: a) the ways in which identity affect compliance with international norms; b) changes in identity, for example from "misanthropic' to 'norm supportive' ones, can occur as a consequence of regime transformation or other major systematic social transformation. The new or evolved norm-compliance friendly identity, in turn, promotes acquiescence to international norms. In this case we have chosen to draw on Thomas' study regarding the issue of conformity with human rights norms by the former Soviet Union as an illustrative example to reflect on the issue of identity and compliance with international norms.[12] Further, the subsequent change in the Soviet regime and its ultimate collapse permit us to make preliminary observations about the relationship between changes in

[11] The section on the relationship of state identity and norm compliance draws heavily on Daniel C. Thomas, 'State Identity and International Compliance: The Soviet Union's Different Response to Human Rights Norms in the 1970s and 1980s', paper presented at the ISA Conference, February 2001, Chicago, IL.

[12] Ibid. p. 4.

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identity and consequent changes in compliance with international norms.

There were several major international covenants that obligated the former Soviet Union to respect human rights as a fundamental principle of relations among European states. Notable among these were the UN international covenants on human rights and the Helsinki Final Act. The former Soviet Union signed both in 1967, and 1975 respectively. However, on the whole the dictate of Soviet identity and the need to preserve the monopoly of Communist Party over the state and the legitimacy of the communist regime, prompted the Soviet leaders to define Soviet interests in terms of a negative identification with the norms of the international society and to resist, rather than encourage, the application of international human rights norms embodied in the Helsinki Final Act. Specifically, throughout the `1970 and until the ascendance of the Gorbachev era, the Soviet leadership vacillated between two impulses: denial of the need to comply with international human rights standard and norms on the ground that a 'socialist' state reflect workers' interests, and therefore by definition, USSR was in compliance with human rights. Alternately, the Soviet government expressed the view that international norms governing compliance with human rights, international legal norms and indeed international law itself, reflected the international economic interests of the ruling classes in the dominant capitalist states. The Soviet policy of peaceful coexistence between two competing socio-economic systems implied that Western emphasis on adherence to human rights inside the socioalist camp was tantamount to Western ideological struggle against the socialist camp, and interference in the internal affairs of the socialist state. The Soviet Union held similar views regarding other salient international norms. For example, the Brezhnev doctrine implied that the Soviet Union had the right to militarily intervene in the internal affairs of other communist allies in Eastern Europe. This doctrine was clearly in violation of the internationally accepted norms of sovereignty and norms that protect the territorial integrity of states.

At home the denial of dissent and repression was rationalized by the Soviet Communist Party and its security organs in terms of the prevailing communist ideology of class struggle and the 'dictatorship of proletariat'. Thomas has pointed out that if denying the validity of a norm to justify noncompliance does not work, a state that does not identify with certain international norms might reluctantly make tactical concessions or adhere to a norm at the lowest common

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denominator. This is particularly the case if the cost associated with persistent international pressure to comply with the norm exceeds the benefits of noncompliance, or if the government believes compliance will bring tangible gains from the international community.

The former Soviet Union appears to fit such a profile. In response to Western pressure to comply with Helsinki's human rights provisions and Soviet desire to expand economic relations with the West and gain access to Western technology, the Soviet leaders made tactical concessions to domestic human rights groups, the 'Helsinki network' in particular.

Gorbachev's "new thinking" based on glasnost (openness) charted a new path toward reformulating Soviet identity. Glasnost meant greater political freedoms, including a degree of freedom of the press, the release of leading dissidents, including the famous human rights activist Andrei Sakharov, and an end to the "leading role" of the CPSU in the society. The glasnost process helped move the former Soviet Union away from insistence on the division of Europe and class struggle abroad, and toward rejecting repression at home. The seminal event which embodied the gradual change in the former Soviet Union toward a "norm-supporting" identity was the Twenty-Seventh Party Congress. At the insistence of Gorbachev, this particular Congress of the CPSU officially replace the ideological commitment to class struggle which rationalized noncompliance with human rights norms and was used to justify repression at home, with a new doctrine emphasizing the primacy of 'universal human values'. Clearly adopting a set of new values and policies does not meant that change will be easily embraced and implemented by the government. The well-entrenched communist orthodoxy in conjunction with organizational and bureaucratic interests at the highest level of the Soviet party, the KGB and other coercive institutions within the Soviet government made the implementation of human rights norms difficult. Nevertheless, acceptance of Soviet human rights obligations as contained in the Final Act, and active cooperation with Western government and non-governmental organization to implement human rights provisions triggered a large scale change in direction of support for international norms of human rights.

The sine quo none of the communist control over the state was the rationale for a one party, the Communist Party, rule. Glasnost and the subsequent emergence of a first opposition party, the Democratic Union, robbed the CPCU of its legitimay and the rationale for one

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party-ruled state. To be sure, the regime had the means necessary for the continued existence of such a state, but this would have meant return to full-scale repression. The fact the Gorbachev leadership opted not to do so, was evidence of a radical change in Soviet identity. This reality was crystallized in February 1990 as the party renounced its 'leading role' in society.

The failure of 1991 coup symbolized the defeat of the conservatives in the CPSU, it hastened the demise of the Communist Party and the final break up of the USSR. Remarkably, the embrace of a new 'norms-supporting' identity that stressed universal human values and recognized Russia as part of a European cultural heritage as opposed to the old communist orthodoxy of waging class struggle with capitalist states, helped accelerate the disintegration of the communist monopoly on power. The collapse of the Soviet Union removed the ideological obstacle to a 'norm-supportive' identity.[13]

In short, the above case illustrates that the nature of a state identification with international norms and principles of conduct will help us understand the predisposition to comply or not to comply with international norms.

IV. Norms Make the Difference: Trade the Development

We have argued that norms are a pervasive phenomena in world politics, and that no international interaction can be sustained over the long term without some degree of convergent expectations among states expressed in a corresponding or a congruent norm. The relevance of norms to the shaping of the post-World War II international economic order helps illuminate this general proposition. In particular, the case of the postwar GATT-based international trading system reveals the mutually conditioning relationship between norms and regimes on the one hand and states' interests on the other. Accordingly, several salient norms stand out as germane to the organization of the GATT-based international trading system and to understanding the degree of openness in that system. Notable among these are the 'nondiscrimination,' 'liberalization,' and 'reciprocity' norms.

Consider, for example, the norm of 'nondiscrimination.' GATT's commitment to nondiscrimination is embodied in the 'most-favored-

[13] Ibid. For an elaborate treatment of the power and impact of international human rights norms on domestic political liberalization and change see, Thomas Risse and Kathryn Sikkink, 'The Socialization of International Human Rights Norms into Domestic Practices: Introduction', in *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999), Chapter 1.

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nation' (MFN) principle. This principle is applied to tariffs, and to all GATT rules. To be sure, discrimination in the form of selective trade barriers continues to persist. Perhaps the most glaring exception has been regional economic organizations that discriminate against nonmembers, and notable among these is the EU. Many exceptions to the nondiscrimination norm have appeared over the years in the form of custom unions, and regional free trade organizations such as the former EEC and the current EU. In a similar vein, nontariff barriers such as the Reagan administration's Voluntary Export Restraints (VERs) designed to lessen the erosion of the Detroit's market share of automobiles in the United States to the Japanese car manufacturers is an important symbolic example of trade discrimination. Nevertheless this norm undergirds the vast expansion in post-WWII trading volume. In terms of trade volume, NAFTA's incorporation of this norm has made the US-Mexico and US-Canada trading partnerships among the largest in the world.

The World Trade Organization (WTO) established on January 1, 1995, embodies nondiscrimination as a key principle – i.e., any barrier to trade should apply equally to all member countries. To be sure there are exceptions to this vital principle. Among others, developed countries are permitted to give tariff preference to developing nations, and countries entering into regional free trade agreements do not need to extend the preference negotiated in this context on a MFN basis.

In a similar vein another vital norm to the function of the international trading system has been the norm of 'reciprocity.' Whether it is the interpretations of rules of free trade or the post-WWII development of rules on how best to encourage states to lower trade barriers, the norm of "reciprocity" has played a vital role in the GATT system. It is easy to see why states develop convergent interests and expectations that national economic interests will be served by this norm. The central premise underlying this norm is that a country that benefits from another country's lowering of trade barriers should reciprocate.

As has been the case with the norm of nondiscrimination, there have been major challenges to this norm. One significant symbolic blow to this norm has been the Generalized System of Preferences according to which 19 industrial states agreed to eliminate tariffs unilaterally for ten years on manufactured and semi-manufactured goods exported by less developed countries.

Clearly, the American role in supporting this norm has been critical to its long-term viability. The United States had insisted on reciprocity

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for a variety of reasons, notably to justify tariff concessions to domestic mercantilist audiences who opposed unilateral concessions. However, this norm in turn had shaped American trading policy and the behavior of American government regarding its participation in international trade negotiation. For example, the Trade Expansion Act of 1962 explicitly incorporated this norm. As a consequence, subsequent legislation authorizing American participation in various trade negotiation rounds, for instance the Tokyo Rounds, and America's present approach to trade negotiation were influenced by this norm. On the whole, the relatively uniform standard demanded of the major trading nations in the various GATT rounds has been shaped by the norm of 'reciprocity'

Perhaps the most important norm that embodies the post-WWII American liberal internationalist economic ideology is the norm of 'liberalization.' The American international economic vision stressed the free flow of goods, services, capital, and access to resources, and a policy of 'open door' to multinational corporate investment. Accordingly, the norm of liberalization became the sine qua non of an international economic system underlying post-war international monetary relations, foreign direct investment regimes, and the GATT system. During the 1950s the norm acted as a moderate-to-strong lever on the behavior of states, deepening the American willingness to cut tariffs. However, in the 1960s liberalization had become a much stronger influence on the foreign economic policies of states, once the Kennedy Round of GATT negotiation reduced trade barriers by industrialized countries.

Central to this norm is the idea that free trade is an effective means to achieving economic growth, increasing incomes, and stabilizing domestic economies. As previously mentioned, the United States has been a major proponent of this norm, and has enshrined it in the Trade Expansion Act of the 1960s which gave the executive branch a 50 percent tariff reduction authority. The subsequent American approach to trade liberalization was shaped and conditioned by the obligations incurred during the Kennedy Round. To be sure, during the 1980s the rise of some protectionist measures by the United States and the Common Market countries directed against Japan and at the newly industrialized countries weakened somewhat the effect of this norm on states' behavior. This short-term erosion was later repaired in the Tokyo Round of GATT negotiation, which made real progress on non-tariff barriers and some progress on reducing tariffs.

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As the example of the Generalized System of Preference mentioned earlier indicates, developing countries have sought to gain relief from the application of this norm in order to protect nascent domestic capital-intensive industries. However, with the advent of economic globalization, liberalization has become the central norm for the operations of free markets world wide. In a world of increasing capital mobility, an irresistible pressure exists on governments to not restrict the flow of direct foreign investment, portfolio capital, and the movements of goods and services. In this sense, liberalization has become the bedrock norm of the modern global economy. No country is immune from the discipline of global free markets and its insistence on adherence to this norm. Governments that choose to ignore the "liberalization" imperative of the global economy will face difficulty in attracting foreign capital and gaining access to foreign markets, thereby jeopardizing their long-term prospects for economic growth.[14]

Recent multilateral trade negotiation such as the Tokyo Round of 1979, and the Uruguay Round (1986- 1993) incorporate all three norms referenced above. As a result, in the Tokyo round tariffs were reduced, including a 35 percent reduction each way between the United States and the European Economic Community, and a 40 percent reduction by Japan on US imports into that country. Similarly, in the Uruguay Round, the 117 negotiating nations agreed to reduce tariffs by about one third: 36 percent by industrial countries and 24 percent by less developed countries. The saliency and strength of these norms of international economic relations is attested by the widespread support and the long-time frame during which these norms have persisted and survived in spite of challenges.

The normative concerns associated with the changing definitions of development in the Third World provide yet another interesting example of the ways in which norms have increasingly become imbedded in international economic concerns. This example also highlights the role of norm entrepreneurs referenced earlier. In this regard, the analysis and observation of Martha Finnemore are instructive. In a thought provoking work, Finnemore focused on, among other cases, the role of the World Bank as a policy entrepreneur in changing the definitions of development in the Third World, and the institutionalization of a world antipoverty norm. Specifically, the goal of

[14] This section draws heavily on Jock A. Finlayson and Mark W. Zacher, " The GATT and the regulation of trade barriers: regimes dynamics and functions", in Stephen Krasner, ed., *International Regimes*, pp. 273-314.

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poverty alleviation became institutionalized via the development efforts of the World Bank, regional development banks, and UN agencies. This shift in attitudes and policies to incorporate the alleviation of poverty as a component of a development strategy in the Third World occurred over time as powerful donor states began accepting this concern. As a consequence, donor states redirected lending toward poverty-related sectors.

The process whereby poverty alleviation was redefined to became an international normative concern, an international obligation embedded in developmental aid, is to some extent analogous to the redefinition of poverty that occurred in the late eighteenth and nineteenth centuries at the domestic level. Prior to the French Revolution the issue of poverty was understood through the prism of Christian religious norms which relegated antipoverty efforts to the realm of private efforts and not a cause of government action. In contrast, in the aftermath of the democratic revolutions of the late eighteenth and early nineteenth centuries, the newly emerging labor groups and the politically potent social democratic parties acted as domestic entrepreneurs elevating the issue of poverty to the status of a social norm. Poverty became a shared social problem and a political problem, needing public policy response. Similarly, the World Bank and other NGOs, including humanitarian foreign aid organizations, acted as international entrepreneurs and made antipoverty concerns a part of international humanitarian concerns as well as a legitimate component of foreign aid for developmental programs.

Clearly, the entrenched international norm of sovereignty and self-determination hampered this shift toward poverty alleviation. However, like other human rights norms, over a period of time this concern with poverty as an international issues was internalized, leading to a redefinition of the development norm. Still, the poverty alleviation norm is an incipient norm, and donor and recipient governments often violate it. However, the notion that development should consistently address the needs of the poor as part of the global agenda of rich donor states is now widely accepted.[15]

V. Conclusion

In this study we profiled three competing interpretations regarding the role of norms in international relations. Both neorealists and

[15] Martha Finnemore, *National Interests in International Society* (Ithaca: Cornell University Press, 1996), pp. 89–128.

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institutionalists conceive of norms in terms of the rational calculations of interests and preferences of states. The neorealist stress reasons of the state, the interests of the dominant actor in particular, for explaining the rise and conformity with norms. As such, this view holds that norms are largely epiphenomenal. In contrast, the neoliberal interpretation understands norms as 'utility maximizers,' enabling states as rational actors to achieve their interests more efficiently, thereby norms have an independent impact on behavior. The constructivist perspective agrees that the reason of the state is the foundation upon which norms emerge. However, national interest in turn is shaped by the constitutive identity of the state. As such norms reinforce patterned behavior of states because a state's leaders having internalized a norm identity with certain appropriate code of conduct as serving the national interests. Accordingly norms can regulate behavior, shape states' conception of their interests and serve as constitutive factor in forming identity.

The strength of constructivism is in its argument that, as norms become internalized, compliance with norms becomes a matter of perceived national interests. As a consequence, the abstraction of 'national interest' perceived by utility maximizing rational actors, is conceptually clarified: by showing the ways in which norms are internalized, or domestic compliance with international norms occurs, a conception materializes of what constitutes 'appropriate standard of behavior' or behavior that is convergent with the expectations of the international community.

Examination of the two interpretative examples, the development of the GATT trading system and the development norm, support the proposition that there is a meeting ground between the three schools of thought which may be captured in the context of a dyadic relations or a mutually conditioning relationship between norms and state behavior. Whereas the 'reason of the state' or the utility maximizing ethos of national actors may drive support for norms, these attributes of the international system in terms shape states' behavior. For instance, the interests of the United States as the post-WW II hegemon in creating an open trading system was germane to GATT, and to developing norms of 'reciprocity, 'liberalization,' and 'nondiscrimination.' These norms, in turn, have profoundly shaped American trade policy and the behavior of other states in the international trading system.

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The Problem of Post-Communist Education: The Romanian Example

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The crucial role of education in transforming post-Communist society is illustrated by developments in Romania during its first post-revolutionary decade, where post-communist governments have yet to come to grips with the problem of highly trained scientific specialists being attracted to service abroad. According to a survey in 2000, 66% of Romania's students are likely to emigrate. The Romanian economy is still primarily oriented around agricultural and industrial production so the education system is burdened with essentially basic demands. However, measures were introduced in 1990 to create centers of excellence in an effort to prevent the flight of skilled technicians to other nations, and the current Romanian education system is designed to prepare for European integration.

Key Words: Romania, higher education, selective migration, brain drain, European economic integration

Introduction

With the collapse of Germany in 1945, one of the first concerns of the military occupation forces was a dramatic reform of the nation's educational system. Allied policies were based on recognition of the fact that unless the German educational system could meet the demands of a post-Nazi system, a political, social, and economic transformation of Germany would not be possible. The lessons of post-war Western Europe are relevant for post-Communist Eastern Europe and the transformation of the Romanian educational system, a policy that was forged by the Romanians themselves, gives us a clear picture of the problems now faced by other former Communist Party states.

For every nation, the educational system represents its highest achievement. The educational system paves the way for advances in standards of living and recognition of the overall accomplishments of the social, political, and economic systems. Unlike natural resources and other attributes that may be dismissed as blessings of fortune, the various educational disciplines define what people have done in terms of

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utilization of their natural resources. In calculating national power, political scientists routinely take into account the educational standards of the population and science and technology generally receive special emphasis.

During the Cold War, developments in science and technology (S&T) were at the forefront of competition between the communist and non-communist worlds. Scientific installations and their staff members were targets of some of the most determined efforts of intelligence services in the East and the West. Numerous special incentives were offered to personnel willing to defect from one side to the other. Moreover, scholars devoted great attention to the educational systems of their national rivals in order to make projections about future educational advances that might in some way alter the current balance of power.

With the end of the Cold War, the S&T battle has assumed very different dimensions. Today there is a struggle to determine who will be able to keep those individuals most highly trained in scientific and technological disciplines. The British may have been among the first to recognize the crucial role played by scientists associated with the "deadly arts" of S&T and under various special programs, opportunities were created in the UK for those specialists in the former communist party states who found themselves unemployed.

An essential question, therefore, is how do the former communist party states retain the "best and brightest" of their educated elites. How are they educated and what incentives exist to encourage them to remain in their homelands? Furthermore, how does the system utilize such people in order to help the nation weather the difficult post-communist transition? Because it was a part of the communist party state system and its leadership exhibited excessive intellectual pretensions, the authors have selected Romania as the focal point of this study. Romania's accomplishments, especially in the area of S&T education, are all the more remarkable because of the heavy handed politicization of S&T during the Ceausescu era when Elena Ceausescu, wife of Romania's leader, Nicolae Ceausescu, imposed her personal style on all scientific work.

1. General perspectives

Romanian society faced many challenges during the first post-communist decade. Among the most prominent were:

- An economic crisis after 1989.

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- A random change in the labor market, especially an increase in training requirements so that people could meet the needs of the changing labor market.
- The appearance of an economic private sector
- Restriction in industrial activities and the return to agricultural properties.
- Dramatic changes in social structures.
- Demographic changes: a decrease of the birth rate index, changes in territorial distribution of the population, its effects on the social and cultural make up of these territories, increased migration from urban to rural areas.
- A decrease of the birth rate. The 1997 birthrate is only 61.3% of the birthrate in 1989.
- A decrease in the total student population, from 24% of the national population in 1989/1990 to 20.7% in 1996/1997.

Each locality records yearly statistics on changes in birthrate. The figures concerning migration, which phenomenon was very significant in respect of the period covered by the last statistical analysis, were an estimation, the real level of which could be determined if a separate census were to be taken.

The education level of the population (Social Statistic in NCS 1996)*

Only 38% of Romania's population, i.e. 9.5 million people, have a high or advanced level of education:

- 9% higher education
- 29% high school or over high school.

Economic context

Although the services sector has increased quickly, the Romanian economy is still based mainly on agricultural and industrial production. Unfortunately, both face serious problems. The collectivization effect and public property can be observed everywhere. The return of land to agricultural use began in 1990, but agricultural property fragmented severely. Thus, the majority of agricultural farms are not benefiting from the efficiency of the larger agricultural areas.

Capitalization at its maximum production and the export potential that Romanian agriculture has is partially due to the underdevelopment of the food industry. In contrast to this, industry suffers too much.

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Legacies from the days of Communism, in the form of subsidies and the overprotection of the government, are major causes of the problem. The use of obsolete technologies and equipment (combined with an abundance of employees) made many companies unprofitable. Public sectors provided a greater number of jobs even though the salaries were low. In the meantime, the private sector registered an increase in GDP from 23.6% in 1991 to 52.5% in 1996; even though it employs less people than the public sector it contributes more to the GDP. The labor force in agriculture increased from 28.9% to 37.3%, but the effect of this increase on GDP remains unmodified: 20% for the same period of time. The principal agricultural crops and goods are cereals, olive oil, plants, potatoes, orchards and vineyards, all of which contribute greatly to GDP.

The greatest part of heavy industry is public, although privatization efforts continue. Some industrial processing companies performed similarly. The metallurgy and petrochemical industries are sectors with the potential to grow, although changes in the oil market affected the petrochemical sector. The processing industry has specialized in producing tractors and other engine vehicles, machine tools, and industrial equipment. The textile and wood processing industries are other important sectors that create many jobs. The services industries, which include the PC industry and tourism, are fundamental sectors of the economy that might generate prosperity in the future.

A serious concern regarding the labor force is the effect of privatization on unemployment, resulting in the closing of public companies. These companies employ a large number of unskilled workers. Granting retirement to such employees represents a short term solution; but in the long run it is better to continue to run these companies as long as possible and to teach the employees new skills before releasing them into the job market. The employees' attitudes toward work have retarded this process. Their opinions about work must be changed, and they must be retrained to properly prepare them to re-enter the job market.

In the last decade the Romanian economy experienced a dramatic increase in unemployment. In the first five years alone, over 1.3 million jobs were lost. As a result, the number of people with part time jobs has increased, as has the number of those with a second job. Only 14% of people in the labor force have part-time jobs, and the percentage of those with part-time jobs is higher among men and in rural areas. Other indicators of dramatic changes in Romania's economy in the last ten

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years are:

- A decrease of salaried workers.
- An increase of those who are self-employed.
- An increase of those who work at home.
- A decrease in agricultural workers.

Education contributes to an increase in the quality of work performance and creates jobs for new graduates. Though macroeconomic politics in Romania emphasizes activities that create new jobs, no results have been seen thus far. Contributions from the private sector cause GDP to rise higher and higher, even though lack of capital, high interest rates, and lack of well-trained managers hinder its activities. It is important to realize that a considerable part of the contributions from the private sector towards GDP might be ignored, because the system for collecting economic data by the Government was not initially created to pursue the activity of free entrepreneurs, especially at the volume and intensity of those that started to develop in Romania. In the next few years, the significance of the private sector will increase GDP contributions and create new jobs.

Romania's infrastructure, especially its road system, is well developed, but it needs to be extended and improved, and a limited railway system should be built. In spite of the construction of a European hydroelectric power plant, only a few nuclear power plants exist. Access to electrical energy and its costs are serious problems, and Romania cannot maintain European standards. Industry contributed to 1/3 of the GDP in 1996, which is a 40% decline from its contribution in 1991. Two other major macroeconomic changes that took place in the last 10 years are: reduction of GDP contributions from the state sector and its contributions in forming capital (the latter due to an increase in inflation during the last year). Budgetary expenses and savings in the private sector decreased along with the GDP, thereby diminishing society's ability to adjust to the changes necessary for a economic, social and political transition. Due to disguised unemployment from state enterprises, higher inflation that discourages savings, and the insufficiency of management, the Romanian economy has not been able to recover sufficiently to support social reform. Helped by foreign partners, the Government tried to encourage economic stimulation by concentrating on the social aspect, an extremely challenging task. Education is the only social institution where these efforts are felt. While education is dependent on the economy for financial support, the economy needs

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graduates whose attitudes and abilities can contribute to an increase in productivity and managerial competence. The linkage between the economy and education caused Romanian authorities to initiate an Education Reform, which is in progress.

TABLE 1

Comparison of Romania with Europe & Central Asia, and with medium & low incomes states

	Romania	*Europe & Central Asia*	*Medium & Low income States*
Population July 1st (*millions*)	22.5	473	908
GNP per capita (*US$*)	1,520	2,190	1,710
GNP (*US$ billions*)	34.1	1,039	1,557

TABLE 2

Yearly medium increase, 1993-1999

Population *(%)*	-0.2	0.1	1.1
Labor force *(%)*	0.5	0.6	1.5

TABLE 3

Recent estimation (the last available dates 1993-1999)

Poverty *(% of population under poverty line)*	22	..	..
Urban population *(% of total population)*	56	68	58
Life expectancy *(years)*	69	69	68
Infant mortality *(per 1000)*	21	23	38
Malnutrition *(% of children under 5 years old)*	..	..	..
Access to drinkable water *(% of population)*	62	..	75
Illiteracy *(% of population over 15 years old)*	2	4	14
Inclusion in primary education *(% of population of scholar age)*	104	100	103
- Male	104	101	105
- Female	103	99	100

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2. Economic Structure

TABLE 4

Comparison with 1989

% GDP	*1989*	*1998*	*1999*
Agriculture	15.7	15.0	15.5
Industry	56.4	36.6	31.0
Manufacturing (Processing)	..	27.3	22.2
Services	27.9	48.3	53.5
Household consumption	58.9	72.2	69.6
Public administration consumption	11.6	14.5	14.7
Imported goods and services	18.2	31.8	34.3

3. National Policies in Education

Higher Education: Structure and school figures

Higher education in Romania, which today is struggling to respond to the demands of the post communist transition, originated in the middle of the 17th century. It began with the founding of the Academia Vasiliana (1640) by Prince Vasile Lupu, as a superior school dedicated to the study of Latin and Slavonic languages. Higher Education taught in the Romanian language began in the 19th century when topometry engineering classes were established in Valahia (1818) and Moldova (1824). The first universities were the "Universitatea din Iasi" (University of Iasi) (1860) and the "Universitatea din Bucuresti" (University of Bucharest) (1864). Until the end of WW I, Romania's higher education system was rapidly developing . Rules adopted between 1924 and 1928 were destined to establish higher education as part of a larger sector of education. After 1948 and the creation of the communist regime, higher education – particularly universities – became part of a more unified and centralized system. Though higher education was theoretically universally accessible and free of charge, economic restrictions hindered its development during the first half of the century. Despite this, until the end of the 1970s there were 42 higher education institutions – including the universities of Bucharest, Cluj-Napoca, Iasi, Timisoara, Craiova, Brasov sau Galati – with a total number of 164,567 students.

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During the final days of the communist regime in 1989, major curriculum and administration reforms were implemented by each institution, and educational legislation continues to be examined. An "explosion" of private higher education institutions led to the creation of the NCAEA (National Council of Academic Evaluation and Accreditation) by the Romanian Parliament. In 1996, within the framework of reform drafts on higher education, the implementation of the accreditation system began. New "buffer" councils were set up, block finances through grants were developed and a competitive system of incentive grants was introduced for research and development activities. Some of the new private universities, most notably the Romanian American University led by Rector Ion Smedescu, have prospered but most failed to meet the rigorous standards imposed under the new legislation.

Since its debut in 1990, and with increased efforts since 1997, new reform in education has had the following key objectives for higher education institutions:

- Preparation for European integration.
- Introduction of IT, and of quality management systems.
- Accreditation and transferability among institutions and programs developed towards transferable credits.
- Growing orientation towards curricula and institutional services market.
- Continuous growth of new fields of study, interdisciplinary and multidisciplinary programs.
- Additional decentralization of budgetary funds.
- Promotion of scientific research within universities.
- Increased enrollment capacity in higher education through diversification of financial support granted to higher education, and through an increase in forms and types of higher education.
- Creation of new approaches to financing and providing social services to students.
- The development of supplementary possibilities for post-graduate studies, including the organizing of new institutions for advanced studies.

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The legal framework of reform, established in 1990, has the following objectives:

- To change the relationship between the Government and institutions through an increase in university autonomy.
- Modernization and improvement in the quality of education.
- Creation of evaluation and academic accreditation mechanisms and proceedings.
- Introduction of new financing mechanisms.
- Establishing excellence centers and technology and innovations transfer.

In this new relationship, the NEM (National Education Ministry) will facilitate the creation of settlements. In individual institutions and higher education sectors the NEM will assume, in general, a greater responsibility in planning, managing, and financing.

While enjoying administrative autonomy, the NEM is also responsible for encouraging efficiency. New legislation and current reforms within institutions are meant to promote this equilibrium of authority, and provide the answer for social and individual needs. In a special way, the NEM has a responsibility to coordinate the development of the education system (including the higher education institutions), to establish a framework of institutional competence through quality evaluations and through financing based on performance, and to prevent the obstructions and distortions created by inefficient institutions. In the future, the NEM will play a greater role in providing guidance to employers and the public.

From a structural point of view, Romanian higher education consists of 6 types of private, as well as public, institutions:

i. *University* – The greatest of the higher education institutions, it includes a large number of departments and programs and it awards academic diplomas and scientific degrees, combining research and teaching responsibilities.

ii. *Academy* – A higher education institution that prepares specialists, usually in only one general field (e.g. Music Academy).

iii. *Polytechnic University* – This designation was given after 1990 to former polytechnic institutes (programs accenting technical and practical fields of study).

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iv. *Institute* – An institution that awards diplomas and provides professional training based on studies and professional experience in limited specializations.

v. *University College* – An Institution that offers 2 or 3-year courses, awards diplomas, but does not qualify students for admission to postgraduate studies (can be part of university or might function autonomously).

vi. *Postgraduate schools* – independent by university.

Higher education programs offer various areas: short term education (graduation diploma) and long-term education (license diploma). University Colleges function within universities. Universities might develop short-term studies under each of their long-term specializations. Universities have to request accreditation for these specializations. There are short-term courses for the key scientific fields: engineering, medicine, social and economic sciences. The number of universities accredited for specialization is growing, which is regarded as threatening the integrity of initial training, and is a trend which worries the NEM

Long-term courses are available for the exact sciences, engineering, medicine, pharmacy, stomatology, agriculture, veterinary medicine, forestry, humanistic sciences, social sciences, law, economics, architecture, arts, sport and political sciences, journalism, and communication sciences.

Besides offering more subjects in various specializations, long-term courses provide students with more derivative specializations. For example, in the exact sciences, long-term courses are available for mathematics, cybernetics, physics, chemistry and technologic biochemistry, while short-term courses are available only in cybernetics.

In addition, individual institutions can offer permanent educational courses of a one year duration that concentrate on skills or knowledge that are in-demand by the labor market. There are advanced studies for university graduates (one to two year Master Programs), postgraduate studies (two or three years for offering a greater professional specialization) and doctoral studies (between four to six years for those institutions who are authorized by the National Council for Attesting Academic Titles, Diplomas and University Certificates). The private sector of higher education has 49 institutions (35 are universities) which contain 324 departments, the Romanian American University generally recognized as the most prominent.

The university sub sector consists of "general" institutions, techni-

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cal, medical-pharmaceutical, agricultural and other institutions, such as:

- Art, music, and theatre Academies
- Economic studies Academies
- Agriculture and construction Colleges
- Economics College
- Sport College
- Public Administration College
- Civil Marine College
- Military College

Since 1990, nontraditional forms of tertiary education have grown rapidly in Romania. The education laws encouraged the creation of these kinds of programs, under the leadership of higher education institutions or in collaboration with other organizations. Now, certificates of study finalize these programs. Although they are not equivalent to traditional title certifications, they are recognized in the labor market, even if the official legislation does not provide the service.

Romania designates the open and long-distance education for adults. A major concentration of these programs is the preparation of teachers in the pre-university sector (almost 80,00 people are involved in this kind of instructional program at the national level). Since the year 2000, there have been six centers that offer access to open and long-distance educational opportunities. These centers use communications technology and didactic technology. Besides the training of the teachers, there are programs in journalism, management and informatics. On the tertiary level, there is also private open and long-distance education.

The private sector also provides courses in business administration, finance, accounting, public relations, marketing and human resources management. Certificates are awarded for these programs from the public sector as well. The role of the state, of the NEM especially, is to evaluate certificates and to bring this information to the attention of potential students. The Romanian American University was a pioneer in the area of business education and offered its first course, "Basic Principals of Entrepreneurship", in 1992, utilizing the services of an American instructor who used materials prepared by the College of Business at James Madison University in Harrisonburg, Virginia.

Admission proceedings at the initial level of tertiary education are based on an admission exam. Each institution establishes its own minimum requirements for each major field of study. Exams are

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elaborate and organized by each department. The Rector of the institution is responsible for this task and authorizes the admission of students. Institutions, in collaboration with the NEM, establish the number of students admitted in a particular year. Budgetary allocation of the NEM is partially based on the number of students admitted (unit cost in specialization is the other major factor in the financing formula), thus there is little incentive for institutions to increase the total number of students admitted due to financial reasons; an exception would be when students pay the entire cost of instruction.

Admission to graduate education is limited to the number of spaces approved by the state because of public financing. In private institutions, financial aspects play a relatively more important role in the admission decision, and in some cases, this has caused a greater number of students to be admitted than the institution can handle. The number of students enrolled in public universities and colleges in 1996/1997 was slightly over 261,000, including approximately 14,000 foreign students. Students are enrolled at day-by-day, evening and non-attendance courses, the last 2 forms requiring long terms of study (usually, at least one year).

Table 5 indicates the number of universities, departments, and the percentage of students enrolled in public and private education in important university centers in Romania. Almost one third of the total number of students from the state sector and over half from private education attend classes in Bucharest; however, institution placement does not indicate origin of students. Students frequently migrate from their native town to attend their tertiary education in other places. This is the same case for centers such as Bucharest, Iasi and Cluj-Napoca, which attract a national mass of students. Since 1989/1990 there has been a change from 58.7% of students who attend day-by-day classes to an increase from 9,952 to 237,993 Attendance at evening courses decreased in the same time period from 59,342 to 8,656. These figures reflect a strong preference of students for day-by-day programs, as well as limited opportunities in the labor market for high school graduates. Without attractive hiring options, youngsters choose to continue their day-by-day studies, rather than combining a job with evening classes, or without attendance studies.

Registration in private higher education in 1996/1997 was 93,434 (including 172 foreign students). The 22 private universities, including Bucharest (with 80 distinct departments), comprise 56.9% of the total enrollment in the private sector, indicating a relative greater geographi-

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cal concentration degree in the private sector, in comparison with the public sector. Only 176 students from private faculties attend evening courses, but 35,108 attend courses with variable programs; 58,150 students from private universities attended day-by-day classes, an increase from 47,730 in 1995/1996, but almost equal with scholar figures from 1993/1994. Graduates of accredited private higher education institutions are obliged to pass a final exam at one of the state universities.

The participation ratio in the education process of students between 19 and 23 years of age rose from 15.1% in 1992/1993 to 24.0% in 1996/1997. In 1992/1993, the participation rate of males was slightly larger than that of females, 15.1% compared to 14.3%, but in 1996/1997 the reverse was true (24.0% and 24.3% respectively). This small increase in female participation is also reflected in the increasing number of specialization courses to which mostly women apply. In contrast with most other countries, the number of men and women who participate in higher education in Romania is fairly equal, but in the job market men are employed more often than women.

Table 6 presents the dates regarding current scholar records from higher education and projections for 2002/2003. New scholar figures from 1999/2000 exceeded projections of 66,000 with 19,000 due to the introduction of additional paid tax places. Adding the 25,000 freshman students from the private sector, there are 110,000 freshmen students in higher education in Romania. During 1999, population growth, participation ratios and available places were low, each restricting potential growth for new enrollments in higher education. However, starting with the first year of this century, participation ratios will begin to increase rapidly and during 2002, there will be a large increase in students in higher education. The result will be a tremendous change in aggregate participation at higher education from 13.1% in 1996/1997 to over 30% in 2002/2003. Private segments of higher education will increase from 26.2% to 29.9% and the freshmen students in private institutions will increase from 22.5% to 29.9%.

The Romanian government is now confronted with two profound and distinct challenges. First, financing partnerships will be necessary (including student taxes and loan system), if state higher education extends as is anticipated. Second, the NEM has to improve its evaluations and information, if it wants to promote interests in the new market for higher education to private and state students.

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TABLE 5:

Scholar figures in higher education after localization and state/private status, 1996/1997

Locality	*State Universities*	*Depart-ments*	*%*	*Private Universities*	*Depart-ments*	*%*
Bucharest	12	78	32.1	22	80	56.9
Iasi	5	41	12.1	58		7.5
Cluj-Napoca	6	40	11.6	3	9	6.8
Timisoara	4	32	8.7	3	15	5.1
Craiova	1	15	6.1	-	-	-
Brasov	2	13	4.0	-	3	1.1
Sibiu	3	12	3.4	-	1	1.3
Oradea	1	13	4.4	1	6	3.9
Constanta	3	12	3.2	1	5	1.3
Galati	1	8	2.6	1	1	1.1
Targu Mures	3	8	1.3	-	5	1.8
Pitesti	2	5	1.3	-	1	1.9
Suceava	1	5	1.1	-	-	-
Ploiesti	1	5	1.5	-	-	-
Petrosani	1	4	1.1	-	-	-
Targoviste	1	6	1.3	-	-	-

Source: National Education Ministry

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TABLE 6

Dates and projections regarding scholar figures from higher education 1996/1997 ñ 2002/2003 (1000s)

	96/97	*97/98*	*98/99*	*99/00*	*00/01*	*01/02*	*02/03*
18 year olds	383	380	368	340	301	306	339
Total number of high school pupils	792	760	727	804	812	958	1035
Pupils in XII class	190	192	203	176	160	161	200
Total number of students from state higher education	261	263	272	330	388	446	505
Total number of students from private higher education	93	93	93	123	153	183	216
Total number of students in higher education	354	356	365	454	543	632	721
Freshmen students in state sectors	62	50	65	66	77	98	101
Freshmen students in private sectors	18	18	18	24	30	36	43
Total number of freshmen students	80	68	83	90	107	134	144

Source: NEM, "Higher education in a society of learning. Directions lines of a new development politics of higher education in Romania", 1998

Curricula and teaching supplies

Each Romanian university has a strategic educational development plan. This is an official document that determines the range of disciplines and subjects offered. This document also details the number of years of study, the minimum and maximum teaching hours per week, various types of teaching activities, the structure of the university year, and it includes an evaluation system for both students and teachers. Fundamental and general disciplines are required by national standards to occupy from 15% to 18% of the total education, with the exception of the special sciences, where the total requirement of studies required is 30%. The curriculum for specialized studies represents 50-60% of the total education requirements, except for the medicine disciplines, which receive 75-80% of their total education requirements. "Complementary" disciplines represent between 5% and 10% from all areas of study.

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Generally, private institutions follow the same pattern.

Teaching methods within the universities and colleges are consistent with each other within university lectures, seminars, student papers, research activities, and others. Each department, and sometimes each faculty staff member, decides the adequate combination of these approaches, as well as textbooks and other didactic materials. The lack of lab equipment and material for experiments and demonstrations is a common problem in institutions of tertiary education and very serious one in some small private institutions.

The University year begins on or around October 1st and continues till June. The semesters are divided into 14 weeks each. The National Standards require the total amount of school hours to be between 24 and 28. The duration of each of the areas of study varies: humanistic, economic and social sciences, and law and communication sciences require 8 semesters; engineering, agriculture, and forestry require 10 semesters; architecture, medicine, and veterinary sciences require 12 semesters. Programs of short-term cycle have 4 semesters for social sciences and 6 semesters for all other fields.

The faculty of a college or university is organized into a hierarchy of 5 degrees:

- Preparatory: This is a beginner assistant and is the lowest didactic degree. The Preparator is usually responsible for practice courses.
- Assistant: This is an inferior academic position that implies teaching activity (in the general inferior level courses as well as practical courses) as well as holding research responsibilities. Assistants are usually selected by examination from preparators, but the assistant must be at least a Ph.D. student.
- University lecturer: This instructor must also be a student for a doctor's degree, and have a more substantial background in teaching and research responsibilities.
- Associate professor: is selected from a Ph.D. holder with a prestigious reputation.
- Professor: The highest degree within an institution is professor. At this level candidates have to hold a Ph.D. and publish original papers.

All didactic (teaching) positions are awarded through examination. Auxiliary personnel (who do not teach) support the teaching process as follows: auxiliary personnel in departments (21.8%), auxiliary personnel

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to the general education process (12.87%),office workers and administrative personal (42.4%).

There is a symbiotic relationship between the state education and the private education sectors. Many professors from public universities teach also at private institutions, especially during the evening and non-attendance courses. This gives the private institutions prestige and superior quality because they are not forced into paying competitive salaries for full time employees. Similarly, if the possibility of additional earnings did not exist in the private colleges and universities, many of the professors from the state education system would take a job in another sector. Students often do not have the privilege of additional help from their instructors because of the additional workload that the professors take on elsewhere.

Evaluation and examination

In all of Romania's higher education programs, professors usually evaluate students through written or oral exams. For instance, instructors normally organize about 3 evaluation sessions for each student during the university year. Exams may be taken up to 3 times. Failing at a third attempt would then require a student to take the course again. Students must pass all exams at the end of the university year. If they do not pass these exams, they may be reexamined. If the students are to advance, they must pass within a month before the beginning of the next university year. The following degrees (titles) are awarded to students who graduate various study programs:

i. License diploma

ii. Graduation certificate of long term university courses for higher education graduates who do not pass license exam

iii. Graduation certificate of short term courses for short-term higher education students who do not pass final exam

iv. Diploma of thorough studies in a major specialization, for graduates of one year graduate studies

v. Master's degree for graduates of 1.5 within 2 year graduate studies

vi. Diploma of postgraduates studies for graduate or of post graduate program

vii. Doctor's diploma for Ph.D. holders

In 1993 NCAEA was authorized to evaluate the higher education system. In conjunction with members appointed by Parliament, the

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Council works with the various commissions representing specific specializations to evaluate all departmental faculties and colleges every 5 years. The resulting reports seek to analyze both cost and efficiency within the higher education system.

Management and financing

Higher education, like many other public services in Romania, has been centralized for a long time. Since 1989, however, a series of measures have been taken to promote a more adequate equilibrium between the central interest and the institutional interest. As previously noted, the NEM is becoming more and more a facilitator and coordinator. The NEM is supported in its higher education responsibilities by a variety of organizations which include: the National Council for Certified University Diplomas and Certificates, the National Council for Quality Management in Higher Education, the Agency for Development of Higher Education and University Research, the Social Agency of Students, and the National Council for higher Education Financing (including the National Agency of Information in University Management). Within the institutions there is a distinction between academic management and administration.

Academic management is, first of all, the teaching staff's responsibility as required under the Senate. Student organizations participate in the management as well. At the institutional level, the Administration Council coordinates the academic activities. The Administrative General Director of the University takes care of more daily administrative problems. Since 1989, new laws and settlements have attempted to make the selection process of academic leaders more transparent and democratic (e.g., to include student participation).

As stipulated by the 10/1991 laws, the NEM establishes the amounts from the state budget that will be allocated to each institution (partially based on the consultancy from CNFIS). Institutions may decide the domestic institutional profit allocation of any further funding and have full autonomy about the creation and spending of these funds on resources. The Institutions reserve the right to set student taxes. Some of the domestic institutional profit sources include revenues from service, research activities, contributions from individuals, legal entities, and taxes paid by the students. External revenue sources for higher education have risen in recent years. The World Bank Project, Tempus Program, the bilateral assistance, and the Soros Foundation (Foundation for Open Society) are the main external financing sources. Financial

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aid for students is awarded in the form of praiseworthy scholarships, general scholarships, and social scholarships.

The first of the two scholarships are awarded based on academic results. The third scholarship is awarded based on the needs and the social status of the student. Since 1994, graduate assistantships have been awarded based on merit. The extended program studies in the doctoral areas have also received awards since 1996.

Students will receive free medical assistance, subsidies for hostels, refectory and sport facilities, as well as price and tariff relief. Within the Education Reform, accessibility to loans made by banks is expected. Scholarships financed by foundations and organizations, contracts and sponsorships, and between institutions and firms are all expected as well. The goal of these efforts is to create greater access to education and to maintain and improve the quality of higher education.

Private colleges and universities have more autonomy than state sector institutions, but still require approval by NEM for the education planning for 2 programs. As required by law, private institutions have to be nonprofit. Discrimination based upon religion or national origin is prohibited, and institutions must comply fully with the national academic standards. Private institutions depend almost exclusively on fees (taxes) as well as sponsorships (for example, by firms that desire a specific instruction for their employees).

However, accredited private institutions (those who received final accreditation) may compete for state institutional research and development funding, as well as funding for graduate assistantships. The academic quality of private colleges and universities varies. Some private institutions may be compared with public institutions, but many others have difficulty meeting the national standards. Merely 5-10% of the private educational staff work exclusively within private institutions. As previously mentioned, the majority of the faculty of private institutions comes from state institutions. Graduates of authorized private institutions (those recognized by NCAEA) may participate in exams for licenses and diplomas at an accredited state institution.

Major finance reform from higher education represents directions through "global" financing. This means that funds offered by the state will not be destined for a very detailed utilization without institutional input. On the other hand, institutions will qualify, according to the usual formula, for a certain level of funds and will be responsible for the utilization of these funds, but they will not be required to report detailed spending. Although accounting and audit proceedings will be main-

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tained to protect against the wrongful utilization of funds, institutions will decide how the resources will be spent. Minister Order no. 3,132, dated January 19, 1988, states that the financing of a higher education institution will include basic financing and complementary financing. These state funds will be supplemented with extra budgetary sources such as donations, sponsorships, and any other come from services.

In an attempt to assure greater accuracy and success, the National Council for Financing of higher Education will take on the responsibility of researching unit costs and trying to make specific recommendations based on the different cost levels for different fields and study levels. Relative costs per field (per major) is multiplied by the number of students in that field to determine the funds for which the institution is qualified.

The total for all fields of study determines the total financing for the institution. If the total allocation – justified for higher education by these formulas – exceeds the amount available from the state, then proportional reductions will be made. However, the benefit of higher predictability for institutions, will link funds more to students rather than faculty (introducing in this way a market test for programs). This will offer a more transparent budgetary mechanism than before.

Some system disadvantages are similar with those found in countries such as Holland and Great Britain. The formulas remain, in part, subjective (and potentially arbitrary) depending on the activity of the parties who recommend weights and unit costs and who fail to consider the need for development of larger and new programs which may have high initial costs and few students. New allocations are especially included in order to renew existing programs and to create new programs. This function has not been ignored in the development of the new system.

Because higher education is constantly evolving, it needs a more efficient financing scheme for existing programs so that the scheme does not become an impediment to its evolution. Complementary financing categories are characterized by a competitive structure. This is available for capital expenses for new buildings and maintenance and repairs. Scholarship funds are allocated proportionally with the number of equivalent students.

A major area of concern is the competition to obtain funds for scientific research. The process of competition was devised prior to 1989. Much attention was being paid to the projection of a competitive mechanism. Since this mechanism was failing, 15% from the state

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budget for higher education is allocated for academic scientific research. However, we have to remember that a great part of higher education is intrinsically linked to such research, therefore financing incorporates a significant teaching component. There are three components to sponsorship research:

i. Competition is based on projects administrated through the National Council for University Scientific Research (CNCSU) and through external organisms such as Tempus.

ii. Competition is based on common funds provided by CNCSU, World Bank, and the Government of Romania.

iii. Competition for financing will come from complementary funds of NEM.

Complementary funds will be based on an algorithm that incorporates dates dealing with the teaching staff, curricula, and the characteristics of students. Initially, this includes using simple formulas and increasing the complexity of this process accordingly as time and quality allows. Institutions are also free, of course, to involve themselves in private research that would generate extra budgetary funds. Concerning this aspect is the proposal to create "Excellence Centers" within the tertiary education system. In this proposal, the teaching staff and selected departments may be identified as an "Excellence Center". Under this designation, they will receive additional financing and certain guaranties for research support that will allow them to conduct research for extended periods of time. However, selection of such centers has to be done in a transparent and fair manner. This process should take into consideration that such "Excellence Centers" may involve monopolies or oligopolies, so benefits of competition may be reduced or destroyed. It is important that the concept and operation of these centers should be reviewed constantly to ensure the faculty of these centers maintain the necessary quality of instruction.

The contemporary Romanian approach to higher education emphasizes market relevance, internal competition for state resources, support for entrepreneurial efforts, and equity concerns between students. Yet it remains essential that the new educational system does not settle into a new rigidity that merely replaces the old one. Planning and implementation must remain a fluid process that is adjustable to accommodate unpredictable changes in the challenges and needs that arise in the future.

The main problems limiting S&T research are generated at the

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political level. This includes but is not limited to the poor recognition by Parliament and the Government of the importance of S&T research to the development of the economy and the solution of social problems.

4. "Brain Drain": How many Students Want to Emigrate?

All of the former communist party states are confronted by the same problem – the emigration of the more talented of their young people – a process which has been called the brain drain. This loss of intellectual resources represents one of the greatest threats to post-communist society not simply in Romania but throughout the region.

Young specialists and the best graduates of higher education decide to study abroad because employment opportunities in their native countries are extremely low. We tried to determine the proportion of students who wanted to emigrate, and then compared our results with those obtained by the University of Bucharest in 1994.

The research conducted in 1994, exclusively among students, indicated that 9% said they would like to study abroad. The rest of the students, with the exception of 14.2% who did not respond, answered that they would make their decision depending on ongoing changes in social-economic conditions in Romania relative to conditions abroad.

Six years later, in the year 2000, 66% of the total students stated that they wanted to emigrate. (More precisely 67.5% of state students and 61.4% of private university students).

Obviously, not all 66% of the students would be able to emigrate. This is partly because of the financial conditions. Those who have a real chance to emigrate are those who have a higher financial status. Therefore, we cannot speak about a real massive emigration because students do not, necessarily, have the financial means to achieve this goal.

Looking at the above, we can build two hypotheses:

- In the first hypothesis, a massive potential for student emigration is an expression of a desire for independence. We can then assume that an increasing level of personal freedom and the desire to emigrate correspond with each other. If students are not satisfied by the entrepreneurial opportunities offered available in other countries.
- In the second hypothesis, students may be seeking a more supportive state than their native one.

Unfortunately, the data offered by the 2000 survey does not provide information which might suggest the reasons why students choose to

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emigrate.

Conclusion: Equalization and Orientation Through Performance

The lessons of Romania illustrate the challenges facing post-communist societies throughout Eastern Europe and the former USSR. One of the most important and dramatic conclusions of the Romanian example is that 80% of all Romanian families have a child who desire to obtain a university education, but this is a luxury few can afford. If the Romanian situation were unique, This problem is widespread in post-communist societies.

The question is asked in the post-communist societies of Eastern Europe and the former USSR what will happen it society is divided into two social classes, one denied educational opportunities while the other is blessed with bright educational prospects? Will this work in a society in which educational institutions will be attended only by the 20% who posses the financial resources necessary for high-level education? What happens to the class that faces frustrations due to poverty and lack of education, something that they did not experience under communism?

Six years ago, educational specialists in Romania warned of political problems that would arise if society became closed to the intergenerational social mobility in an economically stratified economy. Social participation is considered a necessary precondition of groups, communities, and societies.

Six years after the recommendation for a selection based on competency and equal chances for social access, we notice that the intergenerational differences have been further aggravated instead of diminished. The changes initiated in the educational system have been concentrated at a macro-structural level. Political influence still plays an important role in the distribution of opportunities to students. Even though measures have been taken to increase the total number of students at the university level, policies that encourage the access of higher education are still neglecting disadvantaged families and undereducated families.

Looking again at the statistics, only 10% of students come from rural environments. There is a need to extend equal opportunities to students living in rural areas, and suffering from other socio-economic disabilities. Furthermore, state assistance for the students who come from underprivileged milieus must be supplemented with the assurance of dormitory space. Many developed countries supplement grants by fee and tuition exemptions, opportunities to work part time within the

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university, and the possibility of loans to help pay tuition costs.

In Romania, the legal framework for these student loans was created and guaranteed by the state, but due to inadequate financing, this loan system has yet to be implemented. Also, the conditions needed for the loans require students to possess collateral security, and furthermore it would be extremely difficult to obtain a job that would pay enough to permit loan reimbursement after graduation.

The salaries that are offered in nearly all sectors of the Romanian economy for post-graduates are extremely low. Under these conditions, they cannot afford a decent standard of living. The period that comes after graduation coincides with establishment of a family and the purchase of a home. These factors limit the ability of students to repay loans.

Throughout post-communist Europe, scholars and reformers recognize that their prospects for creating a new, stable democratic order depend on enacting effective educational reforms. A weak educational system today will produce a weak social elite who will be responsible for guiding the new post-communist society in the next decade. If today Eastern Europe undergoes social atomization, the prospects for creating an effective and responsive social and political order will be severely inhibited.

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A Free Market for Human Organs

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The authors draw attention to the shortage of human organs which, as surgical methods improve, can frequently be used to save the lives of the living after their owners are deprived of their use by death. They propose the legalization of the sale of body parts as a legitimate free market activity, and argue that in such conditions the price of human body parts would fall to a sufficiently low level to discourage the theft of human organs which the present laws are intended to prevent.

Key Words: Human organs, Organ donation, Medicare, Medicaid, free markets, legalization.

Every year thousands of men, women and children[1] needlessly suffer and die because of a law, a simple legislative enactment that could easily be changed[2]. One may think that something like this could only happen in a third world country. Or believe that a responsible government would change the law that in effect if not by intention kills innocent people every day. Unfortunately, this is now happening in the United States.

It is currently illegal to buy or sell human organs. While roughly 80,000 people need organ transplants every year, only about 20,000 people receive them annually[3]. These 20,000 body parts come from people who donate their organs as a gift to humanity. They receive no remuneration for their acts of generosity. Because people do not have an economic incentive to donate their organs many people take them to

[1] According to Barnett and Saliba (forthcoming, p. 2), "Almost three thousand Americans die prematurely every year because they cannot get kidney transplants and more than forty thousand others suffer while waiting for kidney transplants." Two points must be made about this statistic. First, it involves only those in need of this particular body part; thus, the number underestimates the true problem. Second, roughly this number of people perished in the tragic events of 9/11/01. George W. Bush is moving heaven and earth in order to render less likely a reoccurrence of the World Trace Center murders. Yet, with a mere stroke of the pen, our government could save far more lives; all they need do is end the legislative enactments which prohibit markets from this sector of the economy.

[2] See on this Adams, Barnett, and Kaserman (1999), Anderson and Barnett (1999), Barnett, Beard and Kaserman (1993), Barnett, Blair, and Kaserman (1992), Barnett and Kaserman (1995), Barnett (1988), Barnett, Saliba and Walker (2001), Barnett and Saliba (forthcoming), Blair and D. L. Kaserman (1991), Block (1988), Block, Whitehead, Johnson, Davidson, White and Chandler (1999-2000), Kaserman and Barnett (1991), Rottenberg (1971), Schwindt and Vining (1986), Vining and Schwindt (1988).

[3] In 2001, 24,076 received transplants in the US, see table #1; the waiting list consisted of 79,641 people; see table #2.

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the grave where they will be of no use to anyone. The number of donated organs falls far short of meeting the demand. Consequently people die tragically and needlessly waiting for transplants.

Diagram #1 illustrates this situation. If a market clearing price were but allowed, supply and demand would intersect at point B, under which circumstance there would be no shortage of transplantable organs. However, at the governmentally mandated price of zero, demand at point D is in excess of A; hence, the shortage is brought about by unwise state policy.

This shortage has created numerous other problems. Doctors and medical professionals must chose who receives an organ and who will die waiting for one. They often base this decision on age, sex, health status, and a calculation of post operational life expectancy. For example a 60-year-old male, who would be expected to live five years after the operation, will be placed lower on the transplant list than a 10-year-old girl, who can be expected to live a full and normal life if she receives this operation.

At first glance this seems like a very equitable way of distributing the donated organs. But let us take a closer look. This practice requires fallible human beings to place more value on one life than another. The 60-year-old man did nothing of his own volition to be placed lower on the list. The 10-year-old girl did nothing to deserve the priority placement. This is hardly equitable. Rather, the current system enables medical bureaucrats to play god. Anyone who would take this role upon himself by that very fact establishes that he is not fit to do so.

The shortage has also created a black market for transplantable organs. There have been cases where body parts have been stolen from living people. Because it illegal to buy and sell organs, their price is artificially high. This, in turn, encourages some people to engage in the mutilation of others for financial gain and others to enter into the black market. People are willing to pay these exorbitant costs to save their own life or that of a loved one.

Under the present system one can sign up to be a donor at the local department of motor vehicles while applying for or renewing a driver's license or state identification card. This process involves only one question: "Would you like to be an organ donor?" A mark to that effect is placed on the back of the donor's driver's license or state identification card. However, when the donor dies a medical professional must still seek the consent to the next of kin. This is difficult for the family member who is forced to make a decision during a time of emotional

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distress.

For example, a ten-year-old boy dies in a car accident. The doctor breaks the news to the boy's mother and, because of the time constraints on transplantation, asks in virtually the same breath if she will sign a consent form so that he can transplant the boy's kidneys to a dying young girl. What would you say? To ask this question is almost to answer it.

A mother, who under normal circumstances be comforted in knowing that her son's organs will be used to save a life after he can no longer use them, all too often refuses to sign the form because she cannot bear the thought of someone cutting open her recently deceased son to take his organs.

These deaths and excruciating moral dilemmas could be avoided by interpreting the signing of these donor cards as legally binding. Then, no permission would have to be garnered from suffering family members at a time of great tragedy, when it is most likely not to be given. The problem would still remain that all too few people sign these donor cards in the first place, many less than the total needs of would be recipients. This problem can be addressed by allowing donors and their heirs to be financially compensated for their healthy organs after they die. The financial incentive will motivate more people to donate their organs, in one fell swoop eliminating the shortage of organs.

When signing up for the organ donation plan the donor will be tested and all of the pertinent medical information regarding the future transplantation will be recorded and sent to the organization that matches donors with donees. The donor and his next of kin will sign consent forms and receive a contract that states the amount that the donor's family will receive if the organs are transplanted after his death.

Upon the donor's demise, if his organs are eligible for transplant, his name along with a list of his viable organs will be sent to organizations that have already compiled a list of people in need. The organs are will then shipped for transplantation and the relatives of the deceased will receive a check for the agreed upon amount. Families will have more money to pay the final expenses of their loved ones. The Organ Donation Organization bills the recipient, or their insurance company.

Some may argue that a market for organs would make them too expensive. But transplantations are already very expensive procedures. Further, allowing profit motivations to come to bear would actually lower prices; this is because a greater supply of anything, organs

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specifically included, tends to drive prices in a downward direction. Poor people receive organ transplants under the current system because insurance, either private or public (Medicare/Medicaid), pays for all medical expenses. Why should we assume that they would not or could not pay for the organ itself? This new system will reduce the waiting period for organs, which will decrease the overall period of time spent in the hospital, diminishing the overall cost of treating the patient.

Others say that it is "wrong" to buy and sell kidneys or other such body parts because it would be immoral for someone to make a profit from the commercialization of such items[4]. Their argument is that this violates "human flourishing."[5] Tell that to the person on a kidney dialysis machine who is reduced to the position of looking forward, ghoul-like, to holidays such as Memorial Day or July 4 weekend, since this is when motor vehicle accidents peak, and hence when these body parts are more available. The only "human flourishing" that occurs from this inhumane system is that these personal tragedies serve as the focus for memorable movies and television dramas.

If this vitally important institution is turned over to the marketplace, that will solve all of the problems the current system faces. Through this self-regulating mechanism, organs will be bought and sold freely. Everyone in need of an organ transplant will receive one. It will alleviate suffering and the financial burdens now plaguing families during a very emotionally trying time. Changing this law will improve the lives of everyone involved.

There is another objection that has been leveled against this life-saving idea of applying the strictures of free enterprise to organ donation: that a free market in organs would exacerbate their theft; that is to say, legalization of this market would lead to murder, in that pretty much the only way to steal an organ is to commit bodily harm murder the present possessor of it., or to withhold medical assistance from a seriously ill unwilling donor. The purpose of the present law, under which it is illegal to charge for these items, is to prevent atrocities of this kind.. But if such organs were readily available the profit that could be made by such actions would presumably be sufficiently small to render them profitless. After all, no one can earn a profit from seizing products with zero value.

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[4] See on this Radin, 1987; Kronman, 1983. For rejoinders, see Block, 1999, 2001, forthcoming

[5] Radin, 1987, p. 1849

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But theft of organs already happens under the present system. In the black market people are presently stealing organs. In contrast, in the proposed free enterprise system the original owner of the organ (or his estate) will receive the profit from the sale. Owners of body parts are more justified in benefiting from them than thieves.

In the event, however, the very opposite is the case: legalization of markets in body parts will reduce robbery (and thus murder), not enhance it. We may indeed posit that the more money there is to be made from a product, the greater the danger of nefarious activity, other things equal. But this mitigates in favor of free enterprise, not against it. To see this, consider diagram #2. At present, society is at point A, where the supply curve intersects the Quantity axis. An amount A of bodily parts is forthcoming at the price zero. The market price would be B, if markets were but allowed to operate, because, at equilibrium, this is the point at which supply and demand would tend to be equated. The superficially correct point of this objection to free markets is that the price at B would serve as the gain to be made from pilfering an organ.

However, when price is kept down to zero (point A) by legislative fiat, that is not the end of the matter. Alternative costs, one of the determinants of prices, do not disappear. Instead, they arise, phantom like, in the form of black market prices. To wit, under the prohibition of purchases and sales, the illegal price will rise to C. This is the point at which the supply of organs intersects the demand curve. But note that at this point the profits to be made from theft, the distance between A and C, is in excess of the vertical distance from the Q axis to B. Thus, if a price of B can serve as an impetus for robbery, and it can, then so much more is this true of a price of C, since the latter is greater than the former. Far from creating body "snatching," then, the free enterprise system reduces the economic incentive for such dastardly activity.

We conclude that the case for repealing all laws that interfere with a free market in bodily organs is a strong one. That it will save numerous lives is a foregone conclusion. That present violations of this law are "victimless crimes," and ought to be legalized, is also suggested by our analysis.

Postscript

This is a highly charged issue. We do well, then, to risk repetitiveness and consider once again some reservations that many people will have to our

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"modest proposal." Here, in the words of a referee for this journal, is a report on one such set of objections:

> "The prime objection to compensating relatives or other heirs for body parts, quite apart from the issue of murder by gangs (more likely in third world countries than inside the USA) is the concern that many relatives/heirs would be likely to hasten the death of the elderly and sick by deliberate lack of care, in order to sell the body parts after a "natural" death. Financial rewards for supplying body parts is regarded by a substantial and perhaps overwhelming proportion of the medical profession and general public, as highly inappropriate. Another difficulty is that no matter how low the price of used bodily organs falls, there are plenty of poor persons who would be eager to benefit from the sale of such parts, to their great detriment.

These objections stem from an almost visceral or instinctive revulsion at the idea of allowing prices, property rights, markets, and all the other accoutrements of modern economies to apply to so tender a product as parts of human beings. To bring the human body into the cash nexus is almost to deprecate its value; it is to treat something almost holy as one would a bushel of wheat or a slab of iron.

Nothing, however, could be further from the truth. To allow economic incentives to apply to so important and scarce a resource[6] is to do no more than bring rationality to it, of the same sort as we as a society rely upon to obtain food, clothing, shelter and other products necessary to life. If parts of the human being are so important that nothing but the economic system of the Soviet Union is "pure" enough to apply to them, then this should hold true for other crucial items, such as the aforementioned food clothing and shelter. But to implement any such plan would be to place ourselves in the very conditions out from under which the USSR. has so mightily struggled, at the cost of millions of precious lives.

If "murder by gangs" is the reason we should not allow "capitalist acts between consenting adults" (Nozick, 1974, p. 163) with regard to human organs, then we must prohibit private property of all other things as well, for people kill for those as well. For example, houses, cars, jewelry, money, etc; all of them would have to be socialized. The only problem here is that people can commit murder for such items whether owned in common or individually. No, there is no way to banish murder, completely. But laws against this behavior work tolerably well with regard to every other item under the sun, and there is no reason this could not be also applied to human body parts. That is, here is an

[6] This word is not used to denigrate the importance of the human person. The very opposite is the case. Thousands of people are now going to the grave before their time, or being consigned to lives of great discomfort (e.g., being strapped to a kidney dialysis machine for hours every day) all because market allocation is being dis-allowed. In striving to ameliorate this sad condition, we are acting in *accord* with the importance of the human person, not against it.

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answer to the objection that we cannot legalize markets in organs because people will kill for them: let us more police, plenty of scrutiny for these contracts, etc. If there is any specific fear that more murders might be committed in this market than in others (e.g., drugs) then still more police should be assigned to this arena; no organ transplant contract could be consummated without documents attesting to the fact that the deal was completely voluntary and crime free, etc.

Nor can we acquiesce in the "concern that many relatives/heirs would be likely to hasten the death of the elderly and sick by deliberate lack of care, in order to sell the body parts after a 'natural' death." First of all, no recipient really wants the body parts of an *older* person; they will wear out all too soon. But this is a minor difficulty, easily supplanted by the alternative fear that parents would withhold care from babies and children, whose organs would be in far greater demand, the better to kill them and reap the financial reward. However, this objection, too fails. Certainly, any young person who dies an otherwise inexplicable death (e.g., other, say, than by automobile accident) would be subjected to an autopsy. If the youngster's body were then utilized for body parts, the scrutiny would be vastly intensified. Surely, laws against murder, already on the books, would put paid to all such schemes.

But the gravest objection to all such horror scenarios is that the supposed monetary incentives which give rise to them are *already* in existence. And not only that. The financial reasons for killing young people for their organs are *greater* at present then they would be under legalization (which all due safeguards) of this market. This point has been made above (see text discussion of diagram #2), but bears repeating. One, we assume that the inducement to commit such monstrous crimes is positively correlated with the amount of money to be garnered in this heinous fashion. Two, we note that there is a *greater* price, at present, now, for black market organs under present institutional arrangements, then there *would be*, under legalization (see text discussion of diagram #2). Third, we conclude that the temptation to brutalize children (or anyone else for that matter) if it exists in the face of laws and public sentiment to the contrary, would be *reduced* if we legalized markets of this sort. Q.E.D.

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DIAGRAM NO. 1

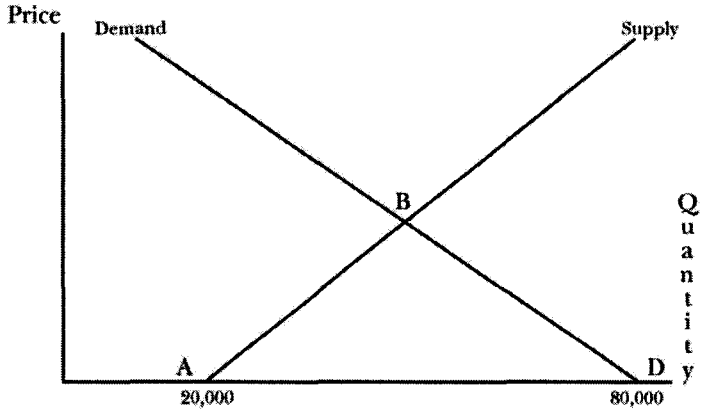

DIAGRAM NO. 2

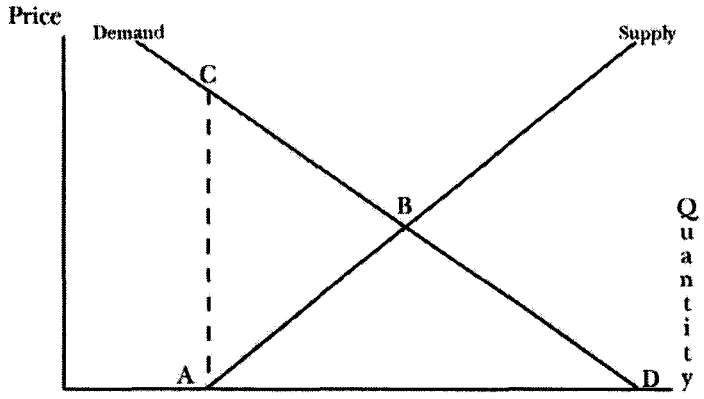

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TABLE NO.1

Number of Transplants Performed in 2001

Type of Transplant	Number
kidney alone transplants (5,949 were living donors)	14,152
liver transplants	5,177
pancreas alone transplants	468
kidney-pancreas transplants	884
intestine transplants	112
heart transplants	2,202
heart-lung transplants	27
lung transplants	1,054
Total	**24,076**

Source: http://www.unos.org/Frame_default.asp?Category=Newsdata; accessed on 6/28/02

TABLE NO. 2

Estimated number of patients listed on the national transplant waiting list by organ and overall as of May 31, 2002

Organ	*Number of Patients*
Kidney	52,226
Liver	17,487
Pancreas	1,318
Kidney-Pancreas	2,526
Intestine	193
Heart	4,146
Heart-Lung	210
Lung	3,777
***Overall**	**79,641**

Source: http://www.unos.org/Frame_default.asp?Category=Newsdata; accessed on 6/28/02

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Book Reviews

Bias: A CBS Insider Exposes How the Media Distort the News
Bernard Goldberg
Regnery Publishing, Inc., 2002

The migration of thoughtful individuals from the Left to the Right has been going on for many years. In the 1930s, it occurred as one after another came eventually to "hear the screams" from Communist cellars. Most of the brilliant coterie of intellectuals who came to surround William F. Buckley at the newly-founded *National Review* in the years after World War II had traveled the entire distance from Communism to an articulate conservatism. Among those making the migration were John Dos Passos, Max Eastman, Whittaker Chambers, Frank Meyer, Eugene Lyons, James Burnham, Freda Utley, and Willmoore Kendall, to mention a few. Philip Abbott Luce, Peter Collier and David Horowitz later made the transition from New Left militant to outspoken critic of the far Left.

Others who have made the migration from Left to Right have not so fully completed the journey, but have instead stayed somewhere on the left. Sidney Hook is perhaps the best example. Although he became a leading anti-Communist, his transition was to democratic socialism.

Now, shortly after the turn of the century, it is noteworthy that three books have appeared in rapid succession in which the authors give testimony to their having, after years of acceptance, seen chinks in the armor of the ideological hegemony, known generally as "political correctness," that prevails among the intelligentsia and the political and professional leadership in both Europe and America. But in each case the migration has been only part of the way, since all three have continued to embrace many tenets of the intellectual milieu from which they came.

One of these is Harry Stein, whose book *How I Accidentally Joined the Vast Right-Wing Conspiracy (and Found Inner Peace)* was reviewed in these pages in the Winter 2001 issue. He has long been a columnist, book-writer, and free-lance contributor to several media.

Another is William McGowan, author of the recent book *Coloring the News: How Crusading for Diversity Has Corrupted American Journalism*. McGowan, a journalist, has been a fellow at the Manhattan

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Institute. His book cites chapter and verse about how the ideologically partisan drive for multiculturalism has distorted the American press, weaning it away from objective reporting. Examples: He reminds us of how the management of the national newspaper *USA Today* required its editors to run a photograph of a "person of color" above the fold on the front page every day; and of how there were over 3,000 news stories in the American press about the murder of the homosexual Matthew Shepard during the first month after he was killed, but only 46 about two homosexuals' kidnapping, raping and murdering a young boy.

The third is Bernard Goldberg, whose book *Bias: A CBS Insider Exposes How the Media Distort the News* is the subject of this review. Goldberg joined CBS News in 1972 and retired 28 years later, in 2000. He was a senior correspondent and the winner of seven Emmy awards. For many years, he was at home in the liberal-left environment at CBS News, as attested to by his statement that as of 1996 he had never voted for a Republican candidate for president of the United States. But eventually he came to see how narrow the intellectual culture in which he was ensconced really was. He tells how it thrived on arrogance, the coloring of stories, elitism, hypocrisy, cowardice and double standards.

The result was that he had the temerity to write an op-ed piece for the *Wall Street Journal* in 1996, and a second one for that same paper in 2001, in which he incurred the wrath of his erstwhile colleagues by acknowledging openly that "the networks and other 'media elites' have a liberal bias." The bias, he said, does not come from reporters' "planning strategies on how we're going to slant the news," but as something that comes naturally to them because of "how they see the world." They don't "see liberal views as liberal," but rather as "simply reasonable views, shared by all the reasonable people the media elites mingle with...."

As with Stein and McGowan, however, such insights haven't, at least so far, turned Goldberg into a conservative. Even though he now serves witness to the liberal bias of the media as though he were himself discovering it for the first time, he continues to see those who have for many years been complaining about that same bias as essentially unreasonable right-wing ideologues. "It's true," he says, "that some people who complain about liberal bias think Al Roker the weatherman is out to get conservatives just because he forecast rain on the Fourth of July." And: "Some right-wing ideologues do blame 'the liberal news media' for everything from crime to cancer." According, he explains how when he wrote his op-ed pieces he "didn't want to become a

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darling of conservatives," and that "none of this [that he has to say about leftward bias] should be seen as an argument against liberal values, or as an endorsement of conservative values."

All three of these recent "apostates" from the left are thus in the odd position of wandering somewhere in an intellectual, political purgatory. They have certainly taken at least one giant step outside the orthodoxy that once housed them. The other foot drags behind, unsure just where to land. It has long been an article of faith on the left that there is no respectable intellectual position on the right. These three men have not abandoned that premise, at least. That leaves them naked as individuals, alone in their apostasy.

Later, I will comment on the intellectual shallowness of their present insights, which lack depth of understanding both of American society as in now exists and of the past. First, however, it will be worthwhile to see just what it is that Goldberg has to tell us about the media bias he has seen. All three of the books I have referred to provide a wealth of examples of how the ideology now dominant in opinion-forming circles in the United States thinks and operates. Stein, McGowan and Goldberg have been "close to the action," so to speak, and know whereof they speak.

Goldberg's Examples of Media Bias

Insistence upon "Politically Correct" Language.

Speaking of the CBS Evening News, Goldberg says "they'd practically go into cardiac arrest if a reporter used the word 'Indian' instead of 'Native American' on the air. Or said 'handicapped' instead of 'disabled' – or better yet, 'physically challenged.'" This insistence on an ideological semantic is no small matter, as any reader of Orwell's *1984* can attest.

Homelessness.

Goldberg devotes entire chapters to the bias shown on certain themes: homelessness, HIV/AIDS, the feminist attack on men, etc. Each of these chapters provides a good synopsis of the issue itself. On homelessness, he points out how the homeless shown on the nightly news shows were "sympathetic souls... temporarily down on their luck," whereas the homeless Goldberg saw on the sidewalks were "by and large, winos or drug addicts or schizophrenics" who "mumbled crazy things." He says the media "had to exaggerate reality if we were really going to gain support and compassion for the homeless." This led to giving wildly expansive numbers: whereas the General Accounting

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Office estimated there were between 300,000 and 600,000, one CNN commentator spoke of *three million*, another on NBC said *five million*, and Charles Osgood on CBS News anticipated *nineteen million*. Oddly, he says, homelessness became a national story the moment Ronald Reagan took office as president, and ceased being a story as soon as William Clinton was sworn in.

HIV/AIDS.

Goldberg says the media responded energetically to the concern of AIDS activists that "straight America" might not pay attention to HIV and AIDS unless the public were convinced that these posed at threat to the mainstream, i.e., to heterosexuals. "Once again," Goldberg writes," the media were more than willing to... go right along." Headlines such as this began to appear: "Cases Rising Fastest Among Heterosexuals." The federal government joined in with a $5 million advertising campaign about how "AIDS doesn't discriminate," even though the disease really wasn't spreading to heterosexuals unless, Goldberg says, "they were having sex with junkies." Michael Fumento wrote a "meticulously documented book" *The Myth of Heterosexual AIDS*, but some bookstores, despite their heralded opposition to "book banning," wouldn't carry it. The chapter on this alone is worth the cost ($27.95) of Goldberg's book.

The Feminist Attack on Men.

For several years, it has been not only "politically correct," but actually *de rigueur*, to portray men as insensitive dolts and women as universally bright and self-confident. This is in line, Goldberg says, with the feminist notion that there is one group that is "fair game: men." The thought is that "any group that feels, rightly or wrongly, that it has been oppressed... has the license to overkill." Accordingly, "we've done a million stories at the networks on deadbeat dads – fair enough – but almost none on how too many divorced women use custody and visitation as weapons to punish their ex-husbands...." He points out how "nobody in the mainstream media is going to criticize a feminist."

Multiculturalism.

We have seen how McGowan reports that *USA Today* required a photo of a "person of color" on the top half of its front page every day. That, of course, provides a veritable parody on ideological extremity. Now we have Goldberg reporting how "*Brill's Content*, in 1999, told a story about the Gannett newspaper chain's policy that *requires* reporters

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at all seventy-five Gannett papers to include minority sources in all their stories." Another parody. Our age, no doubt, cries out for a second Voltaire to apply the acid humor of satire. Goldberg himself doesn't shrink from noticing the hypocrisies: "They love affirmative action, as long as their own kids get into Ivy League schools."

Ideological labelling.

Goldberg raises the semantic issue again when he observes that anyone on the right is always given an ideologically-identifying label, whereas those on the left are not. "Why is it that Phyllis Schlafly was identified as a conservative, but Catharine MacKinnon was not identified as a radical feminist or a far-left law professor or even as a plain old liberal?" (He reminds us that MacKinnon "is the feminist ideologue who had famously implied that all sexual intercourse is rape.")

Valuable for What It Contains, but Intellectually Limited

Goldberg's book is a valuable contribution to today's social commentary, and he personally deserves much credit for his courage in speaking up against the milieu that surrounded him. Those who have noted "liberal bias" as a major fact in American life for several decades can't help feeling abashed, however, by his much-belated appearance with what to him seem to be new-found revelations. Thomas Jackson said it felicitously in a recent review of McGowan's expose: "The achievement is dimmed by the fact that exposing liberal press bias is like shooting fish in a barrel."

That is a minor criticism, however, compared to observations about the intellectual, historical shallowness of the revelations. Simply considering American society during the past half-century by itself, it must be said that the ideological predilections of TV news and of the major newspapers constitute just a small, albeit significant, part of the phenomenon. The Left has made its "march through the institutions," a la Gramsci, and dominates not just the media but academia, entertainment, much of professional life, and the artistic and literary cognoscenti. Revelations such as those by Stein, McGowan and Goldberg could just as easily be made in all those areas; and it would be a serious defect to think of each area alone as though it stands by itself. The overarching fact is that American society has a head that is very different from its body, a culture of alienated ideas that is for the most part contemptuous of the thinking and values of tens of millions of average citizens.

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The shallowness runs even deeper than this suggests. What needs to be seen is that that same overarching fact has been a major feature of American society going back as far as the 1820s. It is impossible to understand American history without taking that potently into account. The "individualistic society" that is identified with the American tradition has not enjoyed the intellectual culture that John Stuart Mill said was essential to it. Instead, that culture has been alienated and has sought alliance with quite literally every disaffected or unassimilated group.

This suggests that it is even too shallow to tie the phenomenon, as I did above, to a Gramsci-like "march through the institutions." Gramsci, counted as a post-Stalinist in Marxian thinking, came along much too late to "earn the credit." No doubt the baby-boom generation of flower children of the Sixties have added to the ideological occupation of American institutions, and Gramsci (and others) can be considered influential to that, but none of that explains, say, how it was that American social science came into being under the influence of the German Historical School in the late nineteenth century, how John Dewey came to dominate American colleges of education beginning in the 1920s, and the like. No, the "occupancy of the commanding heights of American culture" came well before Gramsci or the generation of the Sixties.

One final observation is in order. It is that the working members of America's dominant intellectual culture seem, as evidenced by the authors I've discussed here, to be essentially uneducated. I don't mean that as a pejorative thrown at them lightly, but as an observation that I consider quite serious. They are highly narcissistic and their intellectual horizons are severely limited. Not only do they not see that there are reasoned points of view outside their own orthodoxy (which these particular authors are now questioning), but they don't have the depth even to understand their own origins or the breadth and role of their own consensus. Perhaps that is the final measure of how John Dewey's educational philosophy has worked in practice.

Dwight D. Murphey

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Detoxifying the Culture
John A. Howard
America House, 2001

John Howard represents an all-too-rare breed: the "thinking man's college president." He began his presidency at Rockford College in 1960 with an Opening Convocation that actually discussed ideas, rather than being a laundry list of administrative and budgetary concerns. No doubt he had to deal with the latter in his role as the chief executive officer of the college, but that side of him never shows in his speeches and essays.

Detoxifying the Culture is a compilation of selected speeches given by Howard between 1963 and 2000. A brief preface is written by Herbert London, president of the Hudson Institute. It is perhaps to be regretted that there is nothing after September 11, 2001, to give Howard's insights into the current situation. There is value, though, in remaining aware of the issues as they were seen before that catastrophe.

What the book does do is to provide a running commentary on the cultural and intellectual issues of the final third of the twentieth century. Howard's subject is often the decadence of contemporary Western culture; and, in a voice that is interesting and reasoned rather than strident, he sets off against that decadence a memory of the gentility and striving for excellence that moved Americans a century ago. His model, however, is found not so much in a given point in America's past as it is in the ideal of a free society founded on Christian religious belief, fixed principles and a virtuous populace. It should be apparent from this how greatly his mixture of classical liberalism and conservatism differs from the "do your own thing" understanding of freedom held by so many libertarians on both the Right and the Left.

The Philadelphia Society was established in 1964 as arguably the preeminent intellectual society on the American Right. It is composed of writers, editors, think tank scholars, academics and other individuals of a scholarly bent, although it must be acknowledged that several highly articulate and thoughtful conservatives remain outside its fold. John Howard is among the thirteen members (six of them still living) who have been elected to "Distinguished Member" status in the Society. It is relevant to a review of his compiled speeches that he ranks alongside Milton Friedman, William F. Buckley, F. A. Hayek and Eric Voegelin, say, in the esteem of his peers.

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He began earning that esteem early in life when he participated in D-Day at Normandy as a member of a tank battalion in the First Infantry Division, where he was awarded two silver stars to go with his two purple hearts.

The twenty-four essays (which is what his speeches are) cover a great many subjects. One that this reviewer found particularly interesting was Howard's elaboration of his own belief-system, especially as it pertains to the prerequisites for a free society. He cites Montesquieu to the effect that a free society requires a virtuous populace. Oddly, this insight is out of place today, when the prevailing assumption is that the society can get along perfectly well, thank you, if the policy wonks just do their jobs as they should, despite quite an evident lack of virtue from top to bottom. That assumption underlay William Clinton's acquittal on the impeachment charges.

Why is virtue a precondition to freedom? Howard says that "in a free society, the characteristic means of achieving cooperation is the voluntary observance, not of laws, but of informal codes of conduct." It is only when those informal codes break down that people call more and more upon government, hoping to find a solution to the untoward reality that people don't act and work together as they should. Today, when "dishonesty, corruption, vandalism, violence, crime, deceit and maliciousness have eaten into all aspects of American reality," the primary cause is to be found in the fact that "an ethos [has been accepted] that rejects private virtue as a public good."

It is arguable that, as a theory of a free society, this insight expresses the classical liberal vision at its best, trumping the unfortunate intellectual tradition of looking almost exclusively to economic and political issues. Howard reminds us that a philosophy of individual freedom needs to be a complete philosophy that takes into account all aspects of the human experience. Culture, aesthetics and morals are every bit as important as a cut in the capital gains tax rate.

Howard's book isn't the systematic, almost textbook-like, treatment of the West's cultural decadence that Patrick Buchanan's *The Death of the West* is, but it will take its place as a significant contribution to the literature on that subject.

Dwight D. Murphey

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The Final Days: The Last, Desperate Abuses of Power by the Clinton White House
Barbara Olson
Regnery Publishing, Inc., 2001

The Federalist Party is remembered, more than anything else, for its unseemly rush of last-minute appointments before Thomas Jefferson took office in 1801. Bill Clinton and his administration will be remembered for lots of things, but assuredly one of them will be the rush of pardons, commutations, agency regulations, expensive parties, solicitation of gifts, and plea-bargaining that marked Clinton's last month in office two centuries later.

Barbara Olson was a former federal prosecutor, legal analyst and counsel to a congressional committee – all of which she brought to bear to produce this hard-hitting, by no means neutral, report centered on the actions of those last few days. I say "centered on" because the book does not limit itself to those events but allows itself to recall a good many other abuses by Bill and Hillary Clinton over a span of several years, going back to their days in the Arkansas governor's office. The result is a brief book (240 pages) that, in addition to being a fascinating read and bringing together in one place the actions of the final days, serves as a useful compendium of the whole sordid history.

It is necessary to speak of Barbara Olson in the past tense. She was among those killed aboard the jet that was crashed into the Pentagon on September 11, 2001. The book had already gone to the printer, but the press-run had not yet been made. Regnery made the decision to go ahead with the publication, after its president says, somewhat inexplicably, there was some agonizing indecision about whether to proceed. The decision was a wise one, since the book is the testament that Barbara Olson would have wanted for what she stood for.

The book is a work of reportage, and it will remain for scholars to analyze what Clinton's behavior, and the American plurality's long condonation of it, means for the presidency, the nature of American democracy, and the cultural milieu of the late twentieth century. Those are subjects that deserve some profound reflection.

Clinton's last minute pardons and commutations came in two waves. The first was the "Christmas pardons" issued on December 22, 2000. Here, he granted clemency to 59 people, who included Dan Rostenkowski (former chairman of the House Ways and Means Committee, who had pled guilty to mail fraud); Archie Schaeffer III

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("chief spokesman for the Tyson corporation in Arkansas"); and Susan McDougal (involved in Whitewater). The emphasis in this wave was on clemency for several drug, tax evasion and fraud violators whose sentences were perceived as being unduly harsh.

The second wave came on the last day of Clinton's presidency. There were 140 pardons and 36 commutations, heavily weighted toward people who had used or distributed cocaine. Several were granted without having been put through the customary procedures. Even though the presidential power to pardon is unlimited, Olson explains that "under normal circumstances, the pardon process is highly regularized – to protect against corruption and improper influence." It involves the filing of a clemency petition with the Office of the Pardon Attorney, a process of screening and of possible consultation with other agencies and even with the victims, and the forwarding of a recommendation through the Office of White House Counsel. There are various Department of Justice regulations that apply unless overridden by the president, such as the rule that "a pardon will not be granted to a person who is on probation, parole, or supervised release." It is of some interest that Alexander Hamilton, in Federalist Paper No. 74, said that the pardon power had been made absolute precisely so that the president would be moved to approach it with "scrupulousness and caution."

Under cover of the large number granted, there were several major cases of dubious merit. Olson devotes an entire chapter to the pardon of Marc Rich, the international big-operator in dealings with Iran, Libya and Cuba who was indicted on 51 counts, including some under the Racketeer Influenced and Corrupt Organization statute, and who became a fugitive overseas to avoid trial. The pardon speaks volumes about the power of money and influence: Rich's ex-wife Denise, active in seeking the pardon, was a major contributor to the Democratic National Committee and to Hillary Clinton's senatorial campaign; and Israeli Prime Minister Barak weighed in with personal contacts with the president. When told of the pardon, Rudolph Giuliani, who as US attorney had conducted the prosecution, was "dumbfounded," exclaiming that it was "impossible, the president would never pardon a fugitive."

Others on that last day: Susan Rosenberg (Weather Underground revolutionary), Linda Sue Evans (who had plotted to bomb the Capitol), four Hasidic Jews (convicted of "swindling $40 million in federal funds," whose commutation bore no connection, of course, to

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the surprising 1400 to 12 vote by the New Square Hasidic Jews in favor of Hillary for the Senate), Roger Clinton (the first presidential family member ever to receive a pardon), Henry Cisneros (former Secretary of Housing and Urban Development) and his mistress, Patricia Hearst ("Tania" in the Symbionese Liberation Army, who had received a commutation from President Jimmy Carter and now a pardon from Clinton), Mel Reynolds ("the former Democratic congressman from Chicago who resigned in 1995 after a state court conviction for having sex with a sixteen-year-old campaign worker" and who had been convicted on federal fraud charges), and Dorothy Rivers ("a top official of Jesse Jackson's Rainbow/PUSH Coalition," who had pled guilty to "stealing $1.2 million in government grants").

Even the clemency Clinton did not grant has stirred some public interest. Although he pardoned his brother Roger, he infuriated Roger by not pardoning Roger's prison buddies. Nor did Clinton grant clemency to Jonathan Jay Pollard, the spy for Israel; Leonard Peltier, the American Indian convicted murderer of two FBI agents who has long been the darling of the American Left; financier Michael Milken; or Webb Hubbell (Hillary's colleague at the Rose law firm, who had pled guilty to income tax evasion and mail fraud).

Olson's narrative isn't limited to the pardons/commutations. She tells about the 4,000 pages of last-minute agency regulations promulgated by the administration, Clinton's "midnight appointments" filling empty positions in judgeships and on various boards and commissions, and his plea-bargained settlement (on the day before he left office) of the perjury charge brought by special prosecutor Robert Ray. There were actions, too, after Clinton left office: the unprecedented expense of his office and of the presidential library; and the garish farewell party put on for Clinton at the JFK Airport on January 20 (arguably subject to criticism for drawing attention away from the Bush inauguration).

Since Olson's previous book, *Hell to Pay: the Unfolding Story of Hillary Rodham Clinton*, was about Hillary, it is no surprise that this present book recounts much about Hillary. The narrative also goes back into a number of memorable details about Bill, although these aren't treated as exhaustively as one might have hoped they would be.

In the years to come, the revelations about those years and about the Clinton couple will be endless. It invites a separate shelf in every thoughtful person's library. Barbara Olson's book merits a place on that shelf.

Dwight D. Murphey

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Can the South Survive?
Michael Andrew Grissom
The Rebel Press, Nashville, TN, 2001

Although they live their lives at the highest level of affluence known to human history, those Americans who have not lost track of their roots in the American past endure an inward agony. They know that the country and the people they look back upon lovingly have largely passed from the scene. The pervasive trends toward ever-deeper cultural decay and loss of national memory could be reversed if "enough people would wake up." But the average American's coma seems so intractable that there is little chance of that.

If someone who views America as an integral whole with a distinct national tradition and culture feels this way, imagine how must anyone whose deepest loyalties are to the ideals and culture of the Old South feel? Michael Andrew Grissom is an author who, to the deepest levels of his being, feels that attachment.

This book is a paean to the image of the South at it once was, and a description of what has befallen it. There is a two-century sweep to the book, and its perspective is so different from what this reviewer has read before that I count it as one of the more instructive books I have read. Most readers will find that it has much to say that is new to them. And since Grissom makes no effort to conform his thought to "political correctness," the book rings with sincerity and with the sort of truth that both surprises and delights.

The 700 pages of Grissom's book present a coherent account to which a brief review can't do justice, of course. But here are some salient parts nevertheless:

1. His description of the antebellum South is similar to that given by Richard Weaver in The Southern Tradition at Bay. What one thinks of as "the South" of that time was a white population drawn from English, Dutch, French, Scotch, Welsh and Irish stock. A new but genuine landed aristocracy had arisen among them, around whom was based a culture and way of life that was "a fair imitation of European feudalism." There was magnificence, fashionable gaiety, dignity and formality, religious sensibility, chivalry, and a noblesse oblige that led to a fundamental paternalism toward the slaves that, since Harriet Beecher Stowe, we have been accustomed to picturing as having been much-abused. In all, it was a culture very different from that of the North. (The North, for example, held the "work ethic" in high esteem,

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consistently with the principles of an individualistic, commercial society. The South valued leisure and the gentility that went with it.)

2. One of the virtues of Grissom's book is that it gives us a window into how a Southern traditionalist sees the events that led up to the horrific war of 1861-5 and the developments that followed it. The South was devastated by the war, with its chivalric leadership replaced by a sort of man in search of immediate results. For several years, the South was under military occupation, and its political system was turned over to three million former slaves, with all of the implications that that entailed. When this was over, Southerners reclaimed white control and worked toward a system of "parallel societies." Grissom quotes Carleton Putnam to the effect that "the South, after generations of experience, had developed customs and a way of life with the Negro that took his limitations into consideration with a minimum of friction and a maximum of kindness."

This perception is worth noting, because it differs so greatly from the impression that prevails today. The traditional Southern position (supported articulately by Booker T. Washington) was that it was "better for the negro to develop his own race by concentrating upon the infrastructure of the race, strengthening its social and economic and educational systems from within as opposed to clamoring for a piece of the white pie." At the same time, there was a "white consciousness" that was aware of its own imperatives. The existence of "parallel societies" was reflected in the "separate but equal" principle. Most Americans today would observe that "that was a hypocritical principle – separate but certainly not equal." Grissom says, however, that that impression is wrong. He points out how two black colleges were established in Selma alone, and how Mississippi was, at the time of Brown v. Board of Education, "increasing its black school funding with record appropriations." The reluctance to give blacks the vote is explained by the memory that their vote had been "manipulated during Reconstruction" and the knowledge that "black voters have, without exception, voted as a bloc from their political inception." As a traditionalist, Grissom has little sympathy for the "New South" whose leading proponent was Henry W. Grady of Atlanta. This sought the industrialization of the South in partnership with Northern capital. Over time, the South came under the sway of a "powerful triumvirate" of business, Northern-owned newspapers, and "liberal politicians." This was far removed from the traditional culture.

The 1954 Brown v. Board of Education decision desegregating

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schools came as a bombshell, marking the "beginning of the end" for a South based even in significant part on the old way of life. There were voices who might have provided an intellectual rationale for the South's defense, but they were brushed aside not only by Americans in general, but by a silent, irresolute Southern population. Grissom describes at length the confrontation at Ole Miss, and tells how it broke the South's morale. He says the Old South, so far as it still exists, lies prostrate under an incubus of "media bias, fictionalized history..., political correctness..., deracinated megalopolises..., and confusion." Even the "Southern church" is rapidly being overhauled. On-going efforts are underway to erase the symbols of the South's past, with the removal of tombstones marking Confederate graves, attacks on the playing of "Dixie," the changing of the Ole Miss mascot, new license plates – and, of course, the drive to do away with displays of the Confederate flag. This is an effort to obliterate the Southern memory.

3. Grissom's attention is primarily on the South, but he sees that its current predicament is mirrored by the condition of the United States in general. He says that "America is in a state of spiritual, moral, and political degeneracy" – and cites many specifics. In politics, the word "conservative" has become meaningless, just as the Republican Party has become irrelevant as its leaders refuse to wage the cultural fight. In Grissom's narrative, these are not just generalizations, but realities brought alive by his many examples.

He sees as perverse the "multiculturalism" that is the reigning ideology. He puts it starkly: "Multiculturalism means recognition of every culture except the one belonging to the white man." His examples point to endless double standards applied against whites and in favor of minorities. The fact that Grissom is willing to speak openly about these realities rather than in whispers is intellectually a major virtue of his book. Most of those who support "the West" speak in terms of culture and political principle, not of race; and for the most part that seems to remain preferable. But today's adversary culture doesn't content itself simply to attack Western civilization; it also poses a racialist challenge to the very continued existence, over an historically quite short time, of Caucasians as such. It is that attack that forces the question of race on those who would otherwise avoid it, and Grissom at least is one who is prepared to discuss it. This makes his book one of the more important in today's highly constrained "marketplace of ideas."

4. This reviewer considers it unfortunate that Grissom ends with a chapter on "The Case for Secession." The strongest argument for

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secession by the South today is that nothing else seems to be working, either for the South or for the United States (or for the West) as a whole. But that negative certainly doesn't make a positive out of secession. What Grissom has described is a contemporary South that has none of the leadership, spiritual force, intellectual insight, or personal fortitude to mobilize and make successful a secessionist movement. The United States may well someday break up, but it will be because of its own debility and demographic inundation, not because a significant pocket of strength has suddenly emerged from hearts and minds that are otherwise enervated. (A fatalistic surrender to this enervation is itself effete and ineffectual, but a militant, seemingly virile, alternative would itself be an act in extremis that would simply underscore how far Americans are from their past.) There is no substitute for a general revival, which seems an impossibility.

Nevertheless, there is as much chance for Americans in general to throw off the existing incubus as there is for today's South to do so. And if that is true, there is every reason for anyone who sees himself as an American patriot – because of his love for an image of America as a whole – to take great offense at the suggestion of any part of the United States' seceding. To such a person (and this reviewer is one), the thought of Southern secession or of the breaking off of a southwestern "Aztlan Republic" is virtual treason, softened only by the despairing knowledge that the America he has loved is fast disappearing in any event.

Even though there are many who consider a call for secession repugnant, that doesn't change the fact that there is much in this book worth reading. (The chapter-and-verse Grissom cites about the history of slavery among blacks in Africa is itself worth the price of the book. That history goes far beyond the capture of some blacks by others who took them to the coast and sold them to slave traders. The nineteenth century accounts of slavery and black-on-black brutality in Africa are chilling, and put Southern slavery into an altogether different perspective. More and more, it seems that perspective is a key to ones understanding of history.)

Some mention of the book's availability is in order, since even so articulate and scholarly a presentation has been relegated to the outer margins of the publishing world. *Can the South Survive?* is available from the author for $22.50 (including mailing) at his address at Box 215, Wynnewood, Oklahoma 73098.

Dwight D. Murphey

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The Preservation of History in Fairfax County, Virginia
Ross and Nan Netherton
Lanham, New York and Oxford: University Press of America Inc., 2002

Nations throughout the world are facing the challenging of rapid development, especially in urban areas. Quiet communities have been changed from rural, open areas into crowded urban areas, and historic buildings disappear the world over. This book presents a fascinating look at Fairfax County, Virginia, on the outskirts of the US capital city, Washington, D. C. tackling historic preservation while experiencing rapid physical and demographic changes. The authors, Ross and Nan Netherton, know their subject well having spent 50 years in the area and authored over 15 books together, and almost 40 separately written or edited, on historic preservation. They write a compelling narrative of 35 years of interaction between the Fairfax County History Commission, Board of Supervisors, Park Authority and various individuals and groups in struggles containing cooperation and confrontation, and effectively detail the victories and defeats. The work is rich in charts, discussion of legislation, roster of historic sites, listing of historical publications, naming of significant personalities, as well as organizational and strategic maneuvers. The reader discovers as he or she reads this account that this struggle is going on throughout the world, in thousands of communities facing challenging political and social decisions. Some important lessons are between these pages.

The chairman of the local governing branch, the Fairfax County Board of Supervisors Katherine K. Hanley in the Foreword notes that the book is "the story of many individual battles, woven into a narrative of a county seeking a prosperous future while preserving the best of the past, and adds that the work can serve as a guide not only for the Virginia county but for other areas as well. Anyone interested in historic preservation will discover great benefit from this case study and may well find it as a model work to present the story of other similarly situated communities.

Donald J. Senese

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At the Hands of Persons Unknown:
The Lynching of Black America
Philip Dray
Random House, 2002

There is no subject that lends itself more to anti-American (and, most recently, anti-white) alienation than lynching. The scenes, after all, were often of the utmost cruelty. No decent individual, sensitive to human suffering, undertakes to defend that cruelty.

It is unfortunate, however, if that means that no one is willing to speak in defense of the mainstream of American society during the century following 1865, placing this very cruel subject in context and perspective. Such a failure leaves the field to those who like to paint the picture of white Americans of that period as one of viciousness, rapacity, unbridled racism, and hypocrisy; and who like to picture blacks as victims who received the brunt of that cruelty.

This latter view has long-since become the conventional wisdom among the opinion-makers in the United States. And elsewhere, as well: this reviewer wrote a legal studies monograph in 19951 analyzing the history of lynching and placing it in perspective from a scholarly point of view – and it has been barred from Canada as "hate literature" (an act that is arguably as intellectually disgraceful to Canada as Stalin's insistence on Lysenkoism was to the Soviet Union). Herbert Marcuse's prescription, in his discussion of "repressive tolerance," that all views from the left should be permitted and all from the right prohibited has become reality.

Philip Dray's new book on lynching fits into that conventional wisdom. Unless one is predisposed to question the Left's image of white Americans, a reader will be inclined to accept its narrative at face value. Dray has written a readable chronology of lynching, with emphasis especially on the South, and his study is the product of considerable research into the subjects he considers important.

This said, it remains important to note the ways his book lacks perspective. (What follows is a discussion of just some of those ways, since a complete examination of them would go far beyond the scope of a book review):

1. His entire theme ("the lynching of black America") repeats the

[1] Murphey, Dwight D., 1995, *History of Lynching*, Scott-Townsend Publishers, Washington, DC

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now-customary premise that lynching was primarily an expression of racism. "Lynching," he says, "was a form of caste oppression... the white world's cruelty"; and, elsewhere, "victims were chosen for their race."

What is odd is that he cites quite a lot of counter-evidence, but never reflects about it. He tells about the San Francisco Vigilante Committees of 1851 and 1856; about the hanging of the white gamblers in Vicksburg; about the lynching of eleven whites in New Orleans in 1891 after the Police Superintendent was shot from ambush; that half the thirty lynch victims in Illinois after 1882 were white; that thirty-five whites were lynched in North Dakota in the mid-1880s for cattle rustling; and much more. Lynching was not limited by race or by region of the country.

Robert Zangrando's The NAACP Crusade Against Lynching, 1909-1950, cites the figures compiled by the Tuskegee Institute: that during the 87 year span between 1882 and 1968 a total of 1,297 whites and 3,445 blacks were lynched. If racism were the prime mover, the almost 1,300 whites require some explanation. The major explanation as an alternative to the racial one is the amount of crime to which local communities were reacting.

We know, of course, of the cattle-rustling and other crimes committed in the "wild west." What most people today don't know about is the extent of black crime in the South. In his book on lynching, James Elbert Cutler quotes with favor a statement that during those years "the worst instincts of the negro came to the front; the percentage of criminals among negroes increased to an alarming extent; many were guilty of crimes of violence of the most heinous and repulsive kind." Another author tells that "in 1921-22, the homicide rates in Atlanta, Birmingham, Memphis, and New Orleans per 100,000 Negro population were 103.2, 97.2, 116.9, and 46.7 respectively, while the corresponding rates for the white population were 15.0, 28.0, 29.6, and 8.4." W.E.B. DuBois, the black-activist leader whom today's conventional wisdom perhaps respects most from among the black leaders of that day, spoke candidly of "a class of black criminals, loafers, and ne'er-do-wells who are a menace to their fellows, both black and white." That three-quarters of those lynched were black isn't surprising under those circumstances.

Dray makes the point that some of the lynchings were for trivial offenses, but fails to mention that there were whites as well as blacks who ran afoul of this. In Pine Level, North Carolina, in 1908, blacks themselves lynched a black entertainer for "putting on a poor show."

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2. To those of us who value the long-standing ideal of the "rule of law" and of "due process," even one lynching is one too many. This is underscored, especially, when the lynching is carried out with the utmost cruelty. But even this is worth understanding in perspective. Records show that there were, as we have seen, 4,742 lynchings in the United States during an 87 year period. Match this against the 85 to 100 million that reputable European scholars estimate were killed under Communism after 1917. Match it against the unknown number of blacks killed by other blacks in drive-by shootings in recent years. Match it against the genocides committed on an on-going basis around the world: an estimated 500,000 to 800,000 in Rwanda, one and a half million in Sudan, 200,000 in Liberia – and so on, seemingly ad infinitum. Those hundreds of thousands and even millions don't, of course, excuse even a single vicious act in the United States. But they do have a bearing on the gravamen of the alienated intellectuals' case against the United States: that American "racism" has been almost uniquely virulent.

3. This raises a significant question: Why another book about "lynching in America" in preference to a book discussing any of those other enormities? It would seem that it is ideology, not compassionate concern for human beings, that has determined Philip Dray and Random House's selection of subject.

4. The charge of "ideology" isn't out of place. Dray makes no effort to hide his leftward orientation. It is now seventy years since a good many Western intellectuals "heard the screams" and turned away from Communism, but today's conventional Left has learned nothing from that. We can't imagine Dray saying that "so-and-so had Nazi sympathies, but was nevertheless a beneficent leader"; but he is able to say this about Paul Robeson: "A Communist sympathizer, he was also a strong, unbowed black man." He describes Communist theoretician Herbert Aptheker as "the scholar Herbert Aptheker." The conventional wisdom's double standard toward the two major totalitarian systems of the twentieth century is, of course, well known, so Dray is hardly exceptional in it. We are simply reminded how much we are awash in ideology.

5. Dray's ideology produces an eagerness to make a point, and this in turn affects the integrity of his presentation.

Why, for example, does he stop his narrative in 1965? Doing so is polemically convenient; it allows him to stop while the "black struggle" still seemed a fight for due process and social-political equality. But if

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he had taken the story just a few months more, he would have had to tell about the rise of "black power" and the ousting of whites from the civil rights movement. Taking it somewhat further, he would have had to tell about the rise of a dual-track system applying one set of rules to minorities and another to whites (such as can be seen in the existence of "black student unions" when no such thing would be tolerated for whites). And, beyond that, he would have had to discuss the "multiculturalism" that has replaced the civil rights movement for blacks and portends to make both whites and blacks a minority in the United States in just a few years. Dray's book is published in 2002. It is not as though the almost immediate transmutation of "due process" and "equality" isn't pertinent.

Or we might ask why he didn't stop the narrative in the 1930s. Lynching had almost died out by the late 1920s, completing a decline that had started in 1884 for whites and 1892 for blacks. There was some revival during the Depression years of the 1930s, but that proved temporary. Dray speaks of 1944 as the year "when lynchings first began to decline strongly." That's nonsense.

Our review could go into a great deal else. What we have said is, however, enough. Those who read the book should be warned to bring their critical capacities to bear on it. Unfortunately, many young people assigned to write book reports about it in school will be inclined to accept it at face value. This will simply reinforce the image they have been given from many sources that the American past was essentially despicable.

Dwight D. Murphey

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History of Lynching

By Dwight D. Murphey, J.D.

This objective and non-political monograph
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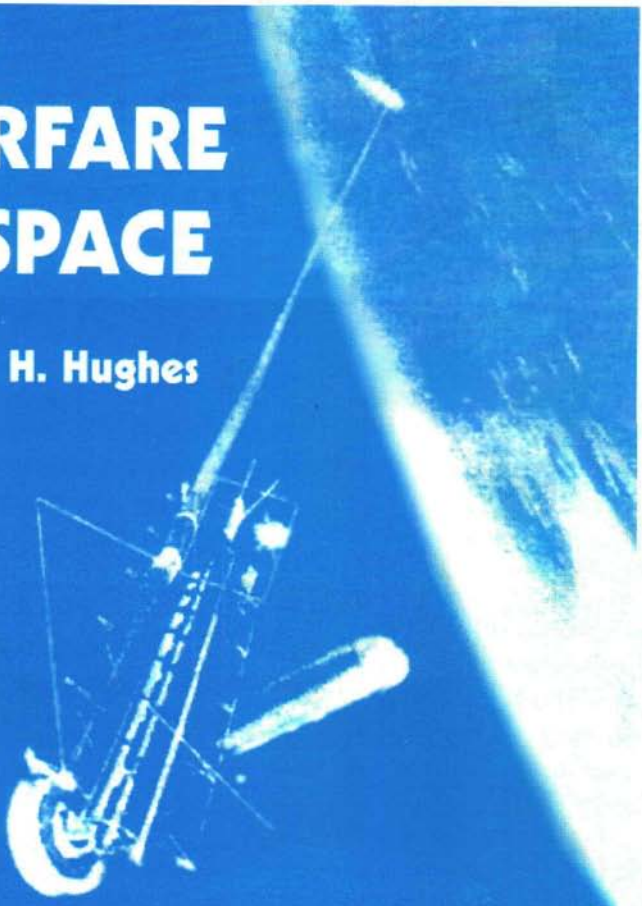

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